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PRACTICAL PROBLEMS FACED BY GOVERNMENTS AND COMMERCIAL PARTIES INVOLVED IN MULTIMODAL TRANSPORT OPERATIONS TO AND FROM DEVELOPING COUNTRIES

Report by the UNCTAD secretariat

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GE.91-52251

Abbreviations

ACIS	Advance Cargo Information System
ASYCUDA	Automated System for Customs Data and Management
cif	cost, insurance and freight
cip	carriage and insurance paid to
EDI	electronic data interchange
EDP	electronic data processing
EDIFACT	Electronic data interchange for administration commerce and transport
fca	free carrier
FALPRO	UNCTAD Special Programme for Trade Facilitation
fob	free on board
ICC	International Chamber of Commerce
ICD	inland clearance depot
JIT	just-in-time (delivery)
MTO	multimodal transport operator
MMTO	mega-multimodal transport operator
LCL	less-than-container load
NVO-MTO	non-vessel operating MTO
NVOCC	non-vessel operating common carrier
TDO	total distribution operator
UCP	Uniform Customs and Practice for Documentary Credits
VO-MTO	vessel operating MTO
VO-MMTO	vessel operating MMTO

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INTRODUCTION

(i) In its resolution 67 (XIV), paragraph 1, the Committee on Shipping requested the Secretary-General of UNCTAD to convene a group of experts to discuss developments in multimodal transport and containerization wherever there is a sea link, to take stock of the principal problems that are experienced by users and providers of multimodal and/or container transport operations and to suggest elements of a future programme of work for the Committee in the field of multimodal transport and containerization.

(ii) In its resolution 67 (XIV), paragraph 3(b), the Committee on Shipping requested the UNCTAD secretariat, in order to facilitate the work, "to make available to the group of experts:[1]

> ...
>
> (b) A report on practical problems faced by governments and commercial parties involved in multimodal transport and/or container operations including the possible effects of mega multimodal transport operators on the total distribution systems in the context of multimodal transport from and to developing countries;
>
> ..."

(iii) The present report contains three chapters. Chapter I describes some important problems faced by Governments in providing the necessary conditions for the development of multimodal transport operations. Chapter II focuses on practical problems faced by commercial parties, transport users and transport operators respectively, in obtaining and providing multimodal transport services. It discusses in particular the impact of mega-multimodal transport operators on developing economies. Chapter III proposes a set of possible solutions, including measures and actions, to be taken by the various parties involved in order to promote the development of multimodal transport in a country. The annex presents possible terms of reference for a national trade and transport facilitation committee.

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1 Report of the Committee on Shipping on its fourteenth session, (TD/B/C.4(XIV)/Misc.3, annex I).

SUMMARY AND CONCLUSIONS

1. Three major types of constraints to the development of multimodal transport have been identified as resulting from internal conditions within many developing countries. The first is the physical limitation of infrastructure, equipment and technology which render difficult the movement of goods. The second is an inadequate institutional and legal transport environment which does not encourage potential transport operators to accept responsibility for multimodal transport operations. Finally, the third refers to operational and commercial conditions which do not favour the development of a local market for multimodal transport services.

2. Particular attention has been given to problems relating to developments beyond the control of developing countries, for example, the recent development of large multinational transport operators (mega-multimodal transport operators) which are increasingly affecting expansion of indigenous transport operators from developing countries.

3. The basic market conditions to develop multimodal transport operations in a country are created through coordination between the three main economic groups involved in the international transport of a country's foreign trade: Government bodies, transport users and transport providers. Government bodies provide the basic infrastructure and define the regulatory environment for transport users and providers; transport users, as importers and exporters, decide on the commercial conditions of a transport operation; and transport operators provide the service of moving the goods from point of origin to destination.

4. The basic market conditions are:

(a) Governments must have established an appropriate operational, legal and commercial environment which stimulates both transport users and transport providers to take advantage of the concept of multimodal transport by creating a market for such services;

(b) Transport users, importers and exporters must be fully aware of the benefits they can obtain by using multimodal transport services; and

(c) Transport providers must be given access to the necessary means for offering commercially viable services.

5. The development of multimodal transport implies a dynamic process requiring coordinated actions by all three groups. Depending on the perfomance of each group, multimodal transport will expand at a more or less rapid pace. In performing their roles, the groups face different problems, some of which are closely interlinked.

6. This report endeavours to analyse the main problems faced by Governments and commercial parties in introducing multimodal transport operations. This analysis is based on the findings from technical assistance and training activities carried out in a number of developing countries. The analysis suggests that the majority of problems result from internal conditions prevailing in the trade and transport sectors of a country. However, some problems result from external conditions imposed by the international market for transport services.

7. This report focuses on the development of multimodal transport in developing countries and identifies the major practical problems faced by Governments and commercial parties in the introduction of multimodal transport services. It shows that the main impediments are controlled by commercial parties and Governments and that the development of multimodal transport operations is hindered not only by limited investments in national transport infrastructure but, more importantly, by a general reluctance to make managerial changes and administrative reforms which could result in better utilization of existing available human and physical resources. Most problems appear to be practical and organizational rather than legal since the law has little bearing on the availability of transport equipment and spare parts and is not responsible for excessive bu-

reaucracy or delays in clearing and moving cargo. For example, complicated import and export procedures, including Customs formalities, are often not required by either legislation or legally binding regulations made pursuant to statute, but are merely procedures which have developed over the years and which could be simplified without legislative change.

8. Technological development is another important issue. Modern transport technologies based on containerization and electronic data interchange (EDI) have brought about a quantum leap in productivity all along the transport chain. Containers remain the fundamental element of multimodal transport services. However, developing countries still face structural problems which hinder their access to the possible benefits of technological development.

9. These problems can be grouped in two main categories: (a) institutional development issues, to be tackled essentially by government authorities, and (b) technical and commercial issues involving mainly the commercial parties supplying and using transport. In both, human-resource development is a key element in bringing about any positive change.

10. The report identifies three fundamental areas in which developing countries might need assistance and support in the development of multimodal transport operations:

(a) Creation of awareness on multimodal transport issues among commercial parties and Governments in developing countries;

(b) Provision of practical and up-to-date information to local decision-makers on the appropriate measures to be taken and their corresponding implications; and

(c) Access to regular information on current trends in multimodal transport and technological developments related to international trade and transport.

11. Assistance and support in these areas will provide developing countries' Governments and commercial parties with the basic tools necessary to encourage the growth of multimodal transport operations under local conditions.

12. Because developing countries might encounter difficulties in obtaining such assistance and support, international organizations both governmental and non-governmental, will play an important role in organizing awareness campaigns, in disseminating information and experience about multimodal transport developments around the world, and in monitoring the technical issues affecting such developments.

13. The growth of multimodal transport in developing countries is a challenge for local decision-makers in both the public and the private sectors. It requires balanced and concerted actions by all the parties concerned, using experience from abroad. It is a dynamic process. If these countries expect to be properly integrated into the world economy, they must take action now so as to participate in the transport of their international trade in the future.

14. The Group of Experts may wish to take note of the present report and to consider including in its proposals for the future programme of work of the Committee on Shipping in the field of multimodal transport and containerization, three items dealing, respectively, with the organization of awareness campaigns, the preparation of specific studies and the monitoring of new developments.

Chapter I

PROBLEMS FACED BY GOVERNMENTS

15. The international door-to-door transport of goods requires for the use of available transport facilities (modes and interface points) under their respective applicable transport liability regimes, from the point of origin in one country to the point of destination in another country. Additionally, since international transport means crossing national borders, administrative requirements (Customs, health, finances, etc.) must be fulfilled in the country of origin, the country of destination and, possibly, in the transit countries as well. Transport facilities, legal regimes and administrative requirements are important components of national import/export activities and are shaped by governmental decisions.

16. The development of multimodal transport operations in a country, therefore, depends on a combination of factors which, in addition to the commercial parties concerned, also involves Governments. These factors are:

(a) The efficient performance and effective support of the transportation and communications sector;

(b) The establishment of clear responsibility for goods moving along national modal networks and interface facilities under different legal regimes; and

(c) The implementation of appropriate trade and transport facilitation measures.

17. Inefficient road, air, railway, shipping and telecommunications services act as barriers to regional and international trade. They contribute to the high cost of doing business in many developing countries. Unfortunatelly, poor national economic performance reduces the amount of resources available for investment in and maintenance of the transport sector. The result is that Governments are unable to preserve, modernize or expand transport and communications infrastructure, equipment and services. Furthermore, national economic and sectorial policies are frequently not responsive to the changing environment of dynamic commercial practices and technological development. National transport regulations, as well as trade documentation and procedures, lag behind international practices. The use of containers is limited. This situation is exacerbated by inadequate support for the build up of the technical and managerial capabilities needed to plan and operate the systems efficiently.

18. These are the major practical problems faced by Governments seeking to develop their multimodal transport operations. They are analysed below under four headings:

(a) Physical barriers;
(b) Institutional framework and transport regulations;
(c) Trade and transport facilitation measures; and
(d) Sub-regional cooperation.

A. Physical barriers

19. The movement of cargo in and out of many developing countries is affected by a series of physical barriers. Some barriers are inherent to certains countries and Governments can do little about them. This is the case, for instance with regard to the geographical location of a country. Other physical barriers result from the state of development of the national transport facilities and depend very much on governmental actions.

1. Geographical location of a country

20. The geographical location of certain developing countries, sometimes viewed as their

remoteness, constitutes an important physical barrier to the growth of international transport. Indeed, small islands are remote "sea-locked" economies in a position not unlike that of "land-locked" countries. Remote countries must endure long transit times and high international transport charges which raise import costs and hence domestic prices; this in turn affects export price, making their goods less competitive. Although it may be argued that high transport costs are also incurred in trade for the remoter regions of many developing maritime States, this burden is generally heavier in the case of land-locked developing countries, particularly because of slow, cumbersome transit procedures involving expensive control and documentation systems.

21. In both cases, the resulting additional transport costs in the international trade of these countries, defined as the cost of transporting their imports and exports *via* transhipment ports or over the territory of a transit country, represent a very high proportion of the total transportation costs, although there are wide differences between individual countries. Furthermore, because of infrequency of services, these countries incur other costs caused by the necessity to maintain a high level of inventories and larger storage facilities.

2. State of development of national transport facilities

22. Many developing countries are still struggling to satisfy their basic transportation needs. Not only do they face planning and financing problems in the development of their infrastructure, but they are also confronted by managerial and operational problems concerning the best use of available infrastructure. Much of the infrastructure had been built to support export of basic commodities, with transport networks being primitive and centred on the main ports, poor connections and limited transport capacity between the major economic and production centres. This reflects historical trading patterns. Not condusive to modal complementarity, it rather enhances modal competition. Many transport facilities are poorly maintained and can hardly cope with requirements for efficient modern transport. The diversity of transport and cargo-handling equipment for all modes makes maintenance and repair very difficult and costly. This results in low levels of efficiency because of transport systems breakdowns.

23. Multimodal transport does not require specific infrastructure or equipment. However, it takes advantage of efficient transport systems and of modern technology related to containerization and EDI. The fact that this aspect has not received sufficient attention in many developing countries slows their development of multimodal transport. Containerization and EDI are the basic elements of any modern transport system. They are increasingly required in modal operations and must be taken into account in the formulation of any infrastructure and equipment development plan.

24. Good plans often exist but they are too often prepared with a view to increasing the physical capacity of networks, without giving sufficient attention to operational improvements. Although the limited resources available in developing countries for basic needs ought to be an incentive for more selective and carefully planned expansion of the transport capacity, plans often continue to favour the building of new infrastructure and the acquisition of new equipment rather than the maintenance of that which already exists. The results are not only a waste of scarce resources, but also impede implementation of more efficient transport methods. This in turn means lower earnings and hence a general diminution of the economic potential of the entire country. A coherent, comprehensive transport policy is thus needed to avoid conflicts between the allocation of resources for maintenance of existing facilities and the development of new capacity.

25. The introduction of international door-to-door transport of goods requires an integrated approach to planning of infrastructure investments (to select and design the most appropriate transport systems) and operations (to secure and facilitate the movement of goods). Coordination among individual infrastructure and operations planning authorities at the national level is necessary as in many countries the entities responsible for infrastructure development are separate from those responsible for transport operations. Such coordination must involve not only the national authorities who decide on infrastructure investments and transport regulations, but also the transport providers and the transport users.

26. Planning and financing of national transport modes and interface points must take into account that these systems might be increasingly used by international flows which will gradually modify the balance between such flows and national flows. Providing for this requires the adoption of an international outlook on planning and financing, in place of prevailing practices

which are traditionally derived from and anchored in government institutions. Public authorities have often failed to look for different funding systems to cover their public facilities and have seldom tried to overcome the existing limitations in official funding sources by calling on the private sector.

27. In many developing countries, modes and interfaces run into managerial and operational problems which limit their productivity. Typical examples of such problems are unreliable schedules, badly maintained transport and handling equipment, indifferent cargo care, non-acceptance of responsibility, poorly trained and unmotivated personnel, etc. As a consequence, the cargo suffers delay, loss or damage. Inefficient operation of modes and interfaces forces international transport operators, whether local or foreign, to look for economically viable ways to avoid the problems. Among the solutions are: the development of their own transport means to overcome the lack of reliable public transport; the setting up of informal and - sometimes - illegal administrative circuits to cut the red tape on documentation, etc. When appropriate solutions cannot be found, international transport operators usually protect themselves by issuing transport documents that limit their responsibility in the transport operations, arguing that they do not have freedom of choice to select the most suitable/reliable transport solution. In many cases, the results lead to a direct increase in transport costs.

3. A brief overview of the situation in major transport systems

(a) Roads and road transport

28. In developing countries where business conditions are favourable, roads connect most production areas with markets and trading centres. However, with poor maintenance, road networks have been deteriorating in many places. Historically, road construction has been given far higher priority than road maintenance. Little attention has been paid, in most countries, to the establishment of effective road management that takes into account the interrelationship between investment in a particular type of transport and its subsequent operating costs. Political commitments to infrastructure development imply provisions for covering maintenance costs in the future. As networks expand, the institutional and financial burdens often increase faster than national abilities to cope with them. In addition, major infrastructure maintenance or rehabilitation often coincides with a severe shortage of financial resources.

29. Commercial trucking fleets are often dominated by private owner-operators who do business in a difficult environment where operation costs are high but both vehicle and capacity utilization is low. The resultant high costs may be attributed to an inadequate regulatory environment or, conversely, excessive government regulations on market entry, as well as a lack of efficient logistics management. On African roads, for example, costs are so high that it is estimated that road transport, on the average, costs 2.5 to 3 times more than that of other regions of the world.[2] Existing trade is, therefore, conducted with a very high transport cost because of poor service conditions and excessive administrative costs. International road transport services are also affected by lack of adequate transport interface points and by border-crossing problems and inspections, all of which result in delays, high overheads and very high attendant costs.

(b) Railways

30. Railway networks in many developing countries have a low density. In Africa, for example, the average is only 2.7 kilometres of track per 1,000 kilometres square. This can be compared to a density in Europe of more than 400 kilometres of track per 1,000 kilometres square. Many railway networks have experienced serious declines both in volume and modal share of traffic in the recent past. The main reason can be traced to the non-adaptation or inability to adapt on the part of the railways as organizations, and the Governments as owners of the organizations, to the changing market and economic environment. In most cases, both in developed and developing countries, railways are run as government departments, which regulate tariffs, wages, staff-service

2 "Programme of the Second United Nations Transport and Communications Decade for Africa (UNTACDA II)", UNDP/ECA Project RAF/89/016, ECA, Addis Ababa, February 1991.

conditions and railway-service obligations. Government regulations to assure tenure of staff often lack incentive systems. Strong unions, poor personnel management policies and restrictive labour practices may lead to lack of discipline, low morale, lower productivity and an exodus of efficient and capable staff.

31. On the managerial side, for example, poor compensation levels and vague career-development policies, coupled with a lack of delegation of authority or freedom of action, have persuaded the best managers to leave railway service in search of better opportunities elsewhere. For want of both material and human inputs and, eventually, equipment availability, this mode's utilization and reliability have declined such that effective railway transport capacity has fallen below even the reduced market-demand levels resulting from increasing road competition, particularly for high-rated goods. In general, railways are now left to carry low-rated goods at tariffs below cost. This creates a vicious circle of financial and system incapacity. The situation has international implications in that transit transport to and from land-locked countries has been adversely affected, for example, by poor railway performance and capacity in transit countries.

32. By way of remedy, certain countries have recently taken measures to rehabilitate their railways by introducing institutional reforms through: (a) progressive reduction of state intervention; (b) reduction of staff and subsidies; (c) verification of prices; and (d) reorientation of efforts to modernize management and maintain equipment.

(c) Shipping

33. Shipping in many developing countries, particularly in Africa and Latin America, is characterized by small ship-owning and ship-operating companies, with relatively few, often uncompetitive, outdated vessels. They predominantly serve the national trade and engage only sparingly in cross-trading. Coastal shipping services are particularly weak.

34. The shipping industry in most developing countries is dominated by strong government direction and control, sometimes severely constraining the application of coherent commercial policies. Many Governments appear to look on shipping as an ancilliary service to the promotion of foreign trade, rather than as a commercial business enterprise struggling in a highly competitive environment. The lack of commercial *stimuli* does not encourage efficiency in shipping companies. When liner conferences have as members inefficient shipping companies, freight rates are sometimes kept artificially high in order to cover the resulting high operating costs and to avoid ship operators having to seek direct government subsidies. This results in subsidizing the more efficient, often foreign-flag operators, in the same conferences at the expense of the shipper. Conversely, some countries prefer to pay direct subsidies to the shipping lines, thereby making it possible for these lines to quote lower rates than their true costs would permit. Their competitors are thus forced to try to match such rates, with consequential negative impacts on their profitability.[3]

(d) Ports

35. Seaports of most developing countries are noted for their low output, high operating and maintenance costs and their generally poor quality of service to users.[4] Most ports have limited container-handling facilities. Cargo-handling equipment often operates at slow, uneconomic speed in comparison to ports of other regions. The ports may have a wide variety of equipment from many different manufacturers; this precludes appropriate training of personnel for repair and maintenance services, and unnecessarily inflates the budget for spare parts.

36. General cargo ports are usually government-owned and operated. They have complex organizational structures which are shared with government and private sector groups. As an example, in Argentina, there are six ministries and 18 state agencies involved in port activities, none of which has overriding responsibility for port operations. Port managers must canvass the views of these various entities each time a decision is to be taken. The major institutional problem is

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3 See, for example, "American Pie", *Fairplay*, Coulsdon, United Kingdom, 18 July 1991, p. 17.

4 There are of course exceptions to this.

therefore the pervasive and oppressive role of central government in port management, directly influencing port policies, objectives and management style, and ultimately hindering efficiency.[5] Governments, sometimes through central planning agencies, involve themselves directly in capital investment, financial management, operating practices, procurement, employment and other management issues. This restricts port autonomy, including adaptation to the needs of multimodal transport.

(e) Other modes

37. Other modes suffer similar handicaps. In air transport, almost all airlines are state-owned and are often not managed on the basis of strict commercial profitability. This situation, coupled with lack of access to foreign exchange, results in difficulties when attempting to renew obsolete fleets as they become more and more expensive to operate. More commercial freedom might also help airlines pursue more agressively, for example, sea/air multimodal transport shipments.

(f) Telecommunications

38. Telephone density remains low in developing countries: 0.72 per 100 inhabitants in Africa, 3.45 in Asia, 5.87 in Latin America, *versus* 22.79 in Europe and 32.83 in North America. The development of telecomunications infrastructure is constrained by investment financing. In general, when a telecommunications administration enjoys some flexibility in aligning tariff structures on cost price, it has no difficulty producing sufficient resources internally to cover operating and development costs. Considering that, in most developing countries, telecommunications equipment must be purchased overseas, availability of foreign currency is a decisive factor in the amount of investment devoted to telecommunications. As a consequence, the rate of development of the telecommunications networks and services has never kept up with demand in the sector. Nevertheless, viable modern transport requires fast, reliable telecommunications facilities, particularly as the use of EDI becomes widespread.

39. EDI is defined as:

> "computer-to-computer transfer of commercial and administrative transactions using an agreed standard to structure the data pertaining to that transaction."

It requires computers, communications and translation software, and links with telecommunication networks. Telecommunication facilities consist of telephone lines which provide the medium over which information can be electronically transmitted between sending and receiving computers. The present state of these facilities in many developing countries is a deterrent to the use of EDI.

B. Institutional framework and transport regulations

1. Institutional framework

40. In most developing countries, Governments have no specific entity through which to treat with international transport issues. Departments of ministries deal with specific but fragmented aspects (sea, air, road, rail) of such movements. This area thus constitutes a kind of "no-man's land" where coordinated decisions on international multimodal transport issues are rendered difficult. As a result, there is very little awareness within public offices of the role of national transport in the context of international trade. This situation limits possibilities for the promotion of multimodal transport which Governments could use to stimulate national demand and supply for modern transport services. The coordination of various plannning authorities is essential in order

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5 See "Structural changes in ports and the competitiveness of Latin American and Caribbean foreign trade" (United Nations publication, Sales No. E.90.II.G.10), p. 32.

to create such an awareness at the national level.

41. In many developing countries, competition in the domestic market for transport services is limited by government regulations or by the monopoly of state-owned enterprises. A trader might not have a choice of carrier or cargo handling operator because of national cargo reservation laws or because there is only one (state-owned) stevedoring company in the port, for instance. If a developing country exporter is forced to use a national carrier that has no sailing which corresponds to the importer's tight production schedule or if the stevedoring company habitually provides poor services, the importer may be forced to change his purchasing pattern to a supplier from another country which is free of such constraints.

42. Monopolistic enterprises, protected as they are by the limited responsibility which they bear while, at the same time, benefitting from a captive transport demand are often affected by bad management and interference by the State. This situation does not create an incentive for efficient transport operations. Transport providers and users requiring services from these operators must choose between accepting the attendant monopolistic situations or finding alternatives. In some places, innovative international transport operators have developed logistics solutions which bypass operational and administrative constraints imposed in certain countries. This is the case, for example, in the development of sea-air services between developed countries and places in developing countries where port and inland transport operations cannot be sufficiently controlled by the international transport operators. In other cases, the existence of certain monopolies along a transport chain combined with their inefficient operations restrains international transport operators from accepting door-to-door responsibility for the movement of goods.

43. Promotion of multimodal transport and optimum use of infrastructure require careful consideration of all institutional aspects. Governments must decide on the extent to which the public sector should participate in transport operations and then establish a clear-cut functional division between the public and private sectors in the international transport of goods. On one hand, too much government intervention in transport financing, such as offering national aids and subsidies, will alter international competitiveness of national exports and reinforce the need for commercial protectionism. On the other hand, the development of the concept of "logistics management" in international transport may serve as a powerful tool for developing country buyers and sellers as long as their international transport operators are given management freedom to choose and negotiate the various transport and ancillary services they require.

44. There is often little or no official point of contact between the private and public sectors in developing countries. This is all the more disturbing because the public sector is completely national, and the private sector is partly foreign. Working relations between public offices and administration, on the one hand, and private enterprises, on the other, appear to be marked by mistrust, if the services try to defend public interests; or by complicity, when they yield to entreaties. Any strategy for improvement of this situation might involve a profound change in the mind-set of both parties.

45. In practical terms, Governments which take clear positions on these issues will ease the participation of the private sector in the development of infrastructure, equipment and services. In many developing countries, private enterprise has little or no say in these fields. Public transport companies are often administered by boards consisting exclusively of representatives of the Government, public services or public enterprises. There are no consultative committees of users or, where they do exist, the users have a small voice. Professional organizations are weak and have no role or statutory powers. There is no system of self-regulation and trade discipline, nor codification of commercial practices or collective participation in professional training and the like. Such activities could very well be performed by professional associations, shippers' councils or chambers of commerce.

2. *Transport regulations*

(a) The national scene

46. Regulations are major instruments of government intervention in transport. They are intended to control transport activities directly (e.g. liability regime of a particular transport mode) or to deal with particular "external" effects of such activities (e.g. tariff regulations). Almost all

transport regulations are national in application and most are also national in origin. They are considered adequate for the modes which are dominated by domestic traffic. The differences between countries are slightest in technical regulations, and most apparent in regard to economic measures, with perhaps less regulation and greater freedom in those countries where dependence on international trade is greatest. National regulation policies deal with the competitiveness and complementary of available transport modes and interface points in order to balance various interests on the national transport market. However, equilibrium has not always been achieved. For example, regulations on tariffs and prices have not served their assigned purpose. They were essentially put in place to protect certain modes against others (e.g. railways *versus* road transport). Tariff inflexibility has meant that the systems eventually fall out of step, whereas deregulation would restore the flexibility needed for prices to adjust to costs. As a consequence, many regulations are now becoming an obstacle to efficient operation of the transport systems, since regulated tariffs are not always kept up-to-date to reflect true operating costs.

47. In certain countries, regulations, tariffs and user charges unduly restrict the use of containers and lead to under-utilization of existing infrastructure or to over-investment in new infrastructure. For example, the existing structure of mode and interface-point tariffs has rarely been modified to facilitate containerization, either because tariffs were based on the value of goods transported, or because the tariff structure of a given mode differed completely from the tariff structure of its related interface or mode. As a consequence, in order to reduce direct transport costs, containerized cargo may be stripped at the port before being loaded onto the next transport mode as "general" cargo. Such an operation does not stimulate the greater use of containerization. In some cases, shipowners' commercial practices unilaterally impose surcharges on containers transported overland to cover the risks of no-return. These surcharges often have to be paid in foreign currency. This factor, combined with long inland transit times and container demurrage, poses an additional impediment to the use of containers. Inadequate regulations or the absence of regulations can result in increased transport costs. A new approach to national transport regulations has emerged in certain developing countries, allowing market forces to stimulate competition between modes.

(b) The international scene

48. Many transport regulations in developing countries have been created to protect national transport operations, aiming at the preservation of scarce foreign exchange, reduction of transport costs for the national trade, protection and expansion of national operators, and a reduction in dependency on foreign operators. While these aims may be laudable, they have often not achieved the desired results, however. For example, the net positive foreign exchange contribution that a national shipping company gives a country may be very limited - or even negative - because many of the expenses associated with operating an international shipping company must be paid in convertible currency. Similarly, policies that regulate freight rates - in the interest of promoting national exports - often mean that inefficient carriers will need subsidies from the Government in order to survive. When the level of such subsidies exceeds the Government's ability or willingness to pay, the shipping company faces bankruptcy. This has already happened to a number of national shipping companies in developing countries.

49. In cases where freight rates are not artificially controlled, the opposite effect may occur. This may happen, for example, when a shipping conference allows rates to rise to the level required for the least efficient carrier to become profitable. Very often this turns out to be a national shipping company. In this way national shippers and consignees subsidize foreign carriers through the payment of excessively high freight rates. One reason for this may be that the national carrier has an insufficient cargo base in its home country. Without the possibility of obtaining cargo elsewhere on the route (as a third-flag carrier), the company cannot become profitable; however, restrictive regulations in neighbouring countries may prevent the company from achieving this broader base needed. In other words, national lines may forever be doomed to unprofitability and be a constant drain on the national coffers. A competitive market with efficient operators is probably the best guarantee of good international transport services at fair rates.

50. In this connection, it would seem indispensable that larger entities be created through mergers or joint ventures. Therefore, as an alternative to protectionism, a policy to attract efficient, competitive operators (national or foreign) into the nation's trade may be the best approach to achieve all the goals which were the original reasons for a protectionist policy.

51. A major obstacle to the introduction of multimodal transport in the international transport of developing countries' trade is the uneven pace of regulatory changes in the various trading-partner countries. The particular regulatory environment of a country might not place all (local and foreign) transport operators on the same footing to cope with a competitive international transport market. In countries where there is considerable regulation, some operators may resist deregulation, preferring the *status quo* over all the ramifications of having to reshape strategies as a result of the greater pressure of competition.[6] National carriers are mainly apprehensive about the very uneven terms of competition in the international market and the possible consequences of unrestricted cabotage. To take advantage of market opportunities, national carriers must be able to gather public information on, for example, the break-down of operating costs of transport operators competing internationally. The prevailing regulatory framework, however, will be of little help in providing such information because there is normally no central agency responsible for this. At the same time, if such an agency were created, it would probably try to play a coordinating role not always consistent with a competitive situation.

52. Deregulation can spread from international to national transport operations. However, Governments in developing countries may lack specific studies on the effects of this process. From the standpoint of deregulation of the inland and ocean freight transport markets, a number of risks have to be considered, the first being differences in the competitiveness of the carriers of the various countries. A list of such differences would throw some light on possible solutions. For example, the deregulation of cabotage in road transport might lead to a fall in prices which would spread to all national and international road transport operations. Similarly, more liberal shipping policies could result in an invasion by foreign mega carriers.

3. Liability regimes of transport modes and interfaces

53. In developing countries, transport of goods of foreign origin, moving between ship's rail at the port and shipper's premises inland, is often covered by a network of separate liability regimes which may not be clearly defined and which may leave gaps or even overlap with respect to the liability of successive transport modes or interfaces. The result may be conflicts between the carriers, the port authority, the freight forwarders and the multimodal transport operators (MTOs).

54. In most developing countries, a review of the application of liability regimes covering the international transport of a country's trade would shows that:

(a) The ocean carriers' liability terminates at the ship's rail;

(b) The liability of the port authority is not clearly defined (although governed by the general law set out in the civil code), leading to conflicts with ocean carriers, other modal transport operators, freight forwarders and MTOs. There may be no clearly defined rules regarding the functions of the port authority in stevedoring, storage and related activities;

(c) Road transport liability is governed by a national law although some road hauliers do not actually carry any liability insurance. Legal action to enforce claims against road hauliers is usually difficult and cargo interests therefore often obtain compensation only by the deduction of the value of claims from the outstanding freight if any;

(d) Rail transport liability is also governed by a national law and, as rule, railways are prepared to entertain claims when they are responsible for loss or damage;

(e) Freight forwarders' liability is governed by the civil code which restricts their activity to that of agents of the shipper. In some cases, the legal definition of the sector is covered by a series of specific laws and decrees which outline civil and commercial rights and duties. In others, there are no specific legal texts covering the profession and general company law applies only to the sector; and

(f) MTOs are generally not recognized by national laws and consequently they are not covered by the civil code;

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6 *Research relevant to trends in transport over the coming decade*, Round Table 75, European Conference of Ministers of Transport, OECD, Paris, 1987.

55. It would, therefore, seem that the existing liability regimes for the key partners in the international transport of the country's trade are generally neither clearly defined nor enforced. As a consequence, the small shipper is at great risk when he entrusts his product to *any* carrier for international transport. A single shipment misdirected, with faulty documentation, or held in a warehouse awaiting other cargo to make up a consolidated shipment, can have a devastating impact on the small business which has spent relatively considerable time and effort on creating an overseas market. Even the largest and most responsible carriers will make mistakes occasionally, but a responsible carrier takes the blame and idemnifies the shipper for his losses. Unfortunately, it is the small shipper who, in his quest for the lowest direct transport price, is most likely to rely on a small, under-financed and under-staffed transport operator to handle his shipments.

56. The lack of proper regulations result in the emergence of informal or marginal operators ("suitcase" companies, "fictive" or "clandestine" companies). They are generally unable to offer guarantees of responsibility or to fulfil minimum legal obligations but they carry out their activity alongside those properly structured companies that are technically and legally equipped to execute international transport operations correctly. Informal or marginal operators not only take away business from properly established freight forwarders and MTOs but also taint the image of the profession.

57. In many cases, there is no professional or financial barrier to entry into the international transport business. The result is a wide difference in service capabilities. This makes it difficult for an inexperienced shipper to select a forwarder or a transport operator intelligently. Some form of accreditation with minimum qualifications is consequently considered desirable both for the industry and for shippers.

58. In order to facilitate and promote foreign trade, transport regulations should establish appropriate legal regimes, so that:

(a) Each mode and interface has well-defined responsibility for the cargo handled;

(b) No conflict arises between the areas of responsibility of successive transport modes or interface points;

(c) A liability regime can be defined for any transport operator willing to undertake the transport of foreign trade cargo using more than one mode of transport;

(d) National shippers can rely on such transport operators to handle their transport requirements; and

(e) The resulting legislation is harmonized.

59. This would let shippers separate their trade transaction from the related transport operation. Once the trade transaction had been agreed on, the transport operation could then be handed over to a transport provider who would be able to accept full responsibility. This would mean taking a new approach to the present commercial practices. New requirements for the responsibilities of the transport operators (or carriers) involved in the transport chain would also be necessary. These could be formulated by Governments, in close consultation with all interested parties. Alternatively, professional associations could establish suitable licence or registration schemes, standard trading conditions and/or a code of conduct, with a view to ensuring minimum professional qualifications and standard practices.

4. Present situation of multimodal transport operations

60. Organization by a single transport provider of the movement of goods from door to door has led the MTO as transport provider to take sole responsibility for the movement of goods. In most countries, this responsibility is not regulated but results from normal commercial practices. With a view to complying with the variety of liability regimes, initially MTOs made sure that they had limited their own liability to that of the underlying mode or interface point. However, this left the shippers and consignees in the unenviable position of not knowing the level of eventual compensation they would receive if their cargo were damaged. In an attempt to ameliorate this situation, both the commercial parties and the Governments took steps to establish some rules, the first de-

fined by the International Chamber of Commerce's "ICC Rules for a Combined Transport Document",[7] the latter by the elaboration of the United Nations Convention on International Multimodal Transport of Goods. The commercial parties later joined forces with the Governments in revising the ICC Rules, producing a new set of rules known as the UNCTAD/ICC Draft Rules for Multimodal Transport Documents.[8] Neither set of rules, however, satisfied the shippers' most urgent need, namely for one single, uniform level of liability, regardless of where damage may have occurred. Consequently some entrepreneurial MTOs have begun issuing MT documents which contain such uniform limits of liability. It is likely that more MTOs will follow suit.

61. One reason why such commercial practices are not applied everywhere is the limited possibilities for MTOs to have effective recourse against inefficient transport modes and interfaces in countries where legal regimes are irregularly enforced. Here, the MTOs may offer a MT document with clauses specifically stipulating that they act as principals only on the portions of the international transport chain which they control directly. On those portions which they cannot control but which are often the most exposed to cargo loss or damage, they accept responsibility only as agents of the shipper. In most north-south trade, MTOs act as principals between the point of origin of the cargo transport operation in the north and the port of discharge in the south. From there up to final destination in the south, they act only as agents.

C. Trade and transport facilitation measures

62. Trade and transport facilitation is the simplification and modernization of formalities and procedures, and of documents used in international transport and trade, including the development of new methods of data processing and communications. Efficient operation of transport modes and interface points resulting from reduced physical barriers, institutions and simplified legal regimes is the condition necessary for effective implementation of multimodal transport operations. However, this is not sufficient. There is a need, equally important, for overall structural changes covering new trade and transport practices, particularly in the field of Customs procedures and in the use of modern technology. Government and commercial parties must become aware of the benefits that can be derived from the implementation of facilitation measures and adopt an appropriate positive attitude to them.

1. Customs issues

63. The development of containerization continues to pose problems for Customs administrations in developing countries. Many feel that, for reasons of national security, every container should be opened and checked. However, it is undeniable that such a requirement works counter to the development of multimodal transport operations. Some countries have adopted more flexible measures. They accept the information provided by the shipper in the Customs documents at face value and then perform random checks of the containers when they are stripped on the consignee's premises. These measures are often implemented along with a series of collateral measures such as Customs bonds and Customs-accompanied transport, as well as heavy fines in case of misconduct.

64. The basic concerns of a Customs administration regarding containerization are:

(a) The inland movement of containers with cargo in bond;
(b) The clearance of imported cargo away from the port or border zones;
(c) The movement of empty containers within the country; and
(d) The use of foreign containers for the domestic movement of cleared cargo.

65. The inland movement of bonded cargo makes it necessary to ensure the integrity of the container and to obtain some form of liability coverage or guarantee during the journey. The inland clearance of containerized cargo necessitates a decision on who will pay for the Customs guards and inspectors needed. Furthermore, clearance is normally permitted only for certain types of goods. This often effectively excludes LCL containers from inland clearance, and hence penal-

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7 ICC Rules for a Combined Transport Document, ICC No. 298, Paris 1980.

8 UNCTAD/ICC Draft Rules for Multimodal Transport Documents, June 1991.

izes smaller importers and exporters. The temporary admission of containers is, in many countries, controlled on an individual container basis. Some countries, such as Chile, have implemented a quota system which permits approved agents to maintain a certain number of foreign containers in the country at any time. Such a system greatly simplifies paperwork. The use of foreign containers for the domestic movement of cleared cargo raises the issue of cabotage and might require an appropriate revision of legislation.

66. Simplifying, harmonizing and reducing Customs documentation, procedures and requirements are efficient measures to facilitate the flow of goods. The use of EDI in the Customs clearance of goods is an additional feature which speeds up the movement of goods through ports and at border crossings. The recent efforts deployed by the Mexican Customs administration clearly demonstrate that positive changes can be implemented for the benefit of the administration itself, as well as of trade partners and transport operators.[9]

2. *Use of modern technology*

67. Increasing costs and competition in global trade and transport have led to a search for efficient, cost-effective techniques, particularly through the use of computers and information technologies. Most recently, the introduction of EDI in both trading and trade facilitation activities has begun to change the organization of international transport operations.[10]

68. The concepts of EDI are now being introduced in all developed countries where a number of systems have been created, to link branches of the same company, counterparts in the same industry (e.g. banks, airlines) or small groups of operational partners (e.g. Customs and freight forwarders; Customs and airlines; container operators and sea carriers; etc.). EDI is becoming an indispensable tool for both traders and transport operators in their day-to-day communications with their trading and transport partners. A recent survey carried out in the United States of America by General Electric shows that 80 per cent of shippers use EDI in their transactions with their transport operators, while in Western Europe only 17 per cent of the shippers have developed this practice.[11] Although the use of EDI is gathering steam in Europe and in other developed countries, it will take some time before the industry catches up with the applications in the United States.

69. A number of factors has frustrated the development of EDI initiatives in developing countries. A main impediment is a poor telecommunications infrastructure where the existing quantity and quality of telephone lines in many countries would not support widespread implementation of EDI services.[12] There may also be a poor understanding in the trading community of the role of EDI, resulting in inadequate planning and management of EDI initiatives and lack of overall coordination and allocation of resources. The business practices typical of traditional trading activities (e.g. informal payments) which are perpetuated by the socio-economic structure of society and which consider EDI a threat, hinder its adoption. It is often feared that the implementation of EDI and the consequent rationalization of existing procedures and processes may reduce the number of people employed in the private and public sectors of the trade and transport industries. As a result, there is slow acceptance and reluctance from potential end-users to adopt EDI technology.

70. Developing countries have not yet paid enough attention to these developments. It cannot be over-emphasized, however, that in a few years time, the inability of traders and transport operators in developing countries to use EDI will constitute a very serious barrier to their entry in world markets. Developing countries need to draw up a strategy for their exports to penetrate world markets. This strategy must take fully into account the importance of technological development and must assist national companies in acquiring the special knowledge necessary to compete in the international market.

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9 See "Structural changes in ports and the competitiveness of Latin American and Caribbean foreign trade", *op.cit.*, p. 54.

10 For a further discussion of EDI applications see "Developments in multimodal transport" (TD/B/C.4/328, chapter I) and "The effects of EDP and EDI on transport organizations and users", (TD/B/C.4/AC.11/5).

11 See "L'économie des transports surchargée par les investissements parallèles", *Le Journal pour le Transport International*, vol. 49/1990 (December 1990), p. 4525.

12 See paragraph 38 on page 8.

3. Awareness on multimodal transport issues

71. National transport operators traditionally limit their services to long-established and recurrent operations. In this they fail to perceive clearly their potential role in the future of the transport sector and their importance to the national economy. Transport operators must become partners with shippers and assist them in expanding abroad, in looking after their business and in prospecting for new markets. Such actions will increase cohesion between national trade and transport companies and improve national control of the transport chain.

72. Similarly, local transport users often fail to grasp the significance of the concept of multimodal transport. Exporters tend to limit their objectives to the conclusion of what they believe is a good sale transaction, without giving too much attention to the impact of ancilliary services such as transportation. Importers are not always aware of the operational and financial consequences of selecting one or another trade term when they negotiate their imports. In both cases, the shipper or consignee tends simply to consider a multimodal transport operation as being the carriage of goods by more than one carrier, arranged by one operator. They consequently do not give adequate attention to the financial impact of the time and quality of the transport service offered. Specific awareness campaigns directed at the trading sector, emphasizing the importance of integrating international trade transactions into multimodal transport operations will benefit all parties concerned: local importers and exporters, transport operators and the national economy as a whole.

73. Government officials, as well as commercial parties, in developing countries generally do not recognize freight forwarders and NVO-MTOs as reliable professionals. This may be owing to their lack of awareness of what these operators can do, to their lack of confidence in freight forwarders' and MTOs' agency networks, and to the fact that the requirements for joining the profession may often be minimal or nonexistent. This situation might also be the result of the strong position held by shipping lines in the provision of door-to-door transport services or by some forwarding companies created primarly to support parent shippers.

74. As a consequence, government officials tend to take decisions which do not take into account the importance of national transport operators in reducing the overall cost of cargo movement for the country and in speeding up physical cargo flows. This approach is reflected particularly in the number of constraints imposed on the freight-forwarding sector, such as an ill-adapted legal environment, complex commercial (banking and Customs) procedures or lack of consultation mechanisms between the Government and representatives of the profession on matters pertaining to trade and transport. This creates an environment that is not propitious to growth for freight forwarders and MTOs. For example, tedious administrative and Customs control procedures, unharmonious levels of responsibility between freight forwarders, MTOs and ocean carriers, etc.

75. It is vital that officials in Government entities dealing with trade flows (import and export) be fully conscious of the specific operational characteristics of freight forwarders and MTOs and be aware of the key role which this profession plays in the international trade of a country. Consultation mechanisms should be set up between government entities, freight forwarders/MTOs representatives, carriers and users to discuss all matters of common interest. A committee on trade and transport facilitation measures might be one form of such a mechanism. Endeavours should also be made to reinforce existing facilitation committees and shippers' councils by strengthening the participation of representatives from the transport sector. This is basically an attitude-changing exercise. The combined awareness of public and private decision-makers involved in international trade and transport will be needed to bring this about. High-level seminars on the role of MTOs and freight forwarders in improving the physical flow of goods and in reducing transport and distribution costs for the national economy could improve the situation. However, all concerned must realize that attitude changes do not happen quickly and the learning process may turn out to be quite a lengthy one.

4. Staff motivation in public services

76. Another important aspect affecting trade and transport facilitation is the attitude of staff in public services. In some countries, there is a dichotomy between formal law and legal applications as perceived by the civil servant. When public administration personnel are paid very little, civil

servants to make ends meet may tend to multiply the number of procedures and documents needed so as to collect parallel remuneration. Within a single department, payment for the same document may be collected at various levels of the hierarchy. Other paperwork may be done for a lump-sum price. As a result, there is considerable resistance to simplifying any red tape, even when a decision to do so has been made at the top level.

77. Because, in many cases, the civil servant sees his post as having a statutory rather than a contractual basis, he may feel that his salary is something to which he is entitled by virtue of his office rather than as payment for the tasks actually performed. Laws may be equally subject to individual interpretations depending on local authorities or representatives of the State party. Taxes may be created, levies imposed and contributions requested which cannot be refused. All such behavior, whether individual or collective, may push economic operators into clandestine conduct, makes a mockery of the legal system and demoralize the general public. Whatever the rules and codes of conduct of the underground economy, reflecting customs, habits, family ties, and the like, society is deeply disturbed by any dualistic system. Therefore improvement of even the limited realm of trade and transport logistics can have a very salutary and far-reaching effect on overall public and private behaviour.

D. Sub-regional cooperation in multimodal transport

78. The development of multimodal transport operations requires sub-regional harmonization of infrastructure development, institutional and legal issues, as well as commercial practices. It is particularly important for land-locked countries. To offer efficient transport services, appropriate trade and transport facilitation measures must be established in both the transit coastal countries and the land-locked countries. Sub-regional harmonization, in line with international practices and international conventions, where applicable, can reduce delays and costs related to the movement of goods across borders. Harmonization would minimize, for example, delayed payment for freight forwarding services from land-locked countries, especially where the local currency is not convertible and foreign exchange procedures are time-consuming. It might also eliminate high road taxes on transit cargo or requirements to change the road vehicle at border crossings.

79. One important aspect of sub-regional cooperation relates to the establishment of harmonized legislation on multimodal transport operations for the countries of the sub-region. Such harmonized legislation should be complemented by appropriate commercial qualifications for MTOs, accepted at sub-regional level by all parties concerned: Governments, transport providers and users alike. These parties, within the same sub-region, could work together to draft a common outline for their respective national policy measures concerning multimodal transport operations and containerization. This outline could be inspired by the MT Convention, or be based on the UNCTAD/ICC Draft Rules for Multimodal Transport Documents, adapted to local conditions. The parties could also agree on similar guidelines for the establishment of MTOs in their respective countries. The UNCTAD secretariat has already prepared a number of documents which might assist developing countries with such an endeavour.[13]

80. Although actions are being taken to facilitate trade and transport in many developing regions, there is still work to be done, particularly on institutional and legal issues related to the international movement of goods. The establishment of harmonized measures makes national as well as sub-regional coordination the fundamental issue. Every effort should be made to strengthen joint commissions (government and professional representatives) or trade and transport facilitation committees whose task it is to facilitate transit-cargo movements, including those to and from land-locked countries. Such strengthening should be the subject of intergovernmental talks which should not be limited only to government officials, but should also include official representatives of freight forwarders and MTOs, as well as representatives of other commercial parties concerned, such as transport users and transport providers (e.g. ocean carriers).

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13 See "National policy measures concerning multimodal transport operations and containerization", (TD/B/C.4/278) and "Guidelines for the establishment of multimodal transport operators (MTOs) in developing countries", (UNCTAD/ST/SHIP/4).

Chapter II

PROBLEMS FACED BY COMMERCIAL PARTIES

A. Problems faced by commercial parties: the demand side

81. The demand for multimodal transport services in developing countries is affected by a number of problems among which one could highlight:

(1) Characteristics of national foreign trade;
(2) Control over the transport chain; and
(3) Commercial and banking practices.

1. Characteristics of national foreign trade

82. The international trade of developing regions represents only a small portion of the world merchandise trade, in terms of value.[14] It is made essentially with countries outside their respective regions: 93.78 per cent for Africa, 86.57 per cent for Latin America, 43.37 per cent for Asia. Non-bulk goods carried by international seaborne transport were estimated, for 1988, at 1,179 million tons of which the developing countries' share represented only 31 per cent (about 365 million tons).[15]

83. Furthermore, the structure of the foreign trade of many developing countries leaves little or no room for intraregional trade. This is so because many neighbouring developing countries export and import very similar types of goods. Raw materials and semi-finished products - which in many developing countries are in the majority - are shipped mainly to industrialized countries, from whence in turn manufactured goods are imported.

84. Compared with the trade between developed countries, the international trade of developing countries is small and the share of general cargo which might require multimodal transport services is even smaller. Chile may serve as an example.[16] In 1990, for instance, of the total volume of cargo moving through Chilean ports, 30 per cent was general cargo but only 5.5 per cent was containerized. Nevertheless the international trade of developing countries is increasingly becoming containerized, despite the problems inherent in the fact that some export commodities are not suitable for containerization for example, or because of the seasonal nature of exports and the high inland transport costs of containers. Ethiopia may be a case in point. Here, the high inland transport cost was considered a deterrent to the use of containers. The overall transportation cost of a container between the main port of Assab and Addis Ababa was around $US 3,000 for a round trip. This rate was far higher than comparative rates in other countries, either developed or developing. In Malaysia, for example, the rate would be approximately $US 550 for a 800-kilometre round trip while in Australia a charge of around $US 900 would apply for a similar journey. The reasons for excessively high inland transportation costs in developing countries are many. One may be the lack of appreciation of the potential benefits that can be derived from multimodal transport and thus a reluctance to draw up more realistic modal tariffs. An additional impediment would be the long inland-transit times combined with container demurrage charges imposed by most ocean carriers after expiry of a certain grace period (which ranges from three days in a port to up to three weeks if the container is delivered to a consignee at a remote inland point). Often such demurrage must be paid in foreign exchange. All measures that will permit faster inland turnround of containers can be directly translated into foreign-exchange savings.[17]

85. These are some of the reasons why the development of multimodal transport operations is slow. However, no matter what the volume of trade, well-operated multimodal transport services

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14 See UNCTAD, Review of Maritime Transport 1989, (United Nations publication, Sales No. E.90.II.D.7), p. 3.

15 *Idem.*

16 *Annual Bulletin of Maritime Transport Statistics 1990*, Cámara Marítima de Chile, Valparaiso, Chile.

17 See also paragraph 47 above.

can bring savings to a developing economy. A new approach to national transport regulations is now emerging in certain developing countries, allowing market forces to stimulate competition between modes.

2. *Control over the transport chain*

86. The trading terms (the so-called INCOTERMs) agreed upon in an individual sales contract determine the right of the seller or the buyer to make the necessary transport arrangements and therefore take control of the transport chain. Most common are "free on board" (fob) stipulations whereby the buyer undertakes to arrange for shipment, and "cost, insurance and freight" (cif) stipulations with the seller arranging the transport. However, both terms are totally unsuitable for use with multimodal transport. Much more appropriate are the "new"INCOTERMs "free carrier (named place)" (fca), and "carriage and insurance paid to (named place of destination)" (cip) which correspond to the old fob and cif terms, but do not use the ship's rail as the "cut-off point" in dividing responsibilities between shipper and consignee. The choice of trading terms decisively influences the ability of any country's transport providers to participate in the transport of its own foreign trade.

87. In their export trade with developed countries, developing countries are often trading in a "buyer's market"; they may have more freedom of choice when it comes to import of goods from developed countries. Nevertheless developed-country importers are increasingly involved in the entire planning and execution of the logistics chain of their trade, either directly or through third-party companies. They usually keep full control of marketing and transport arrangements; sellers are not given the opportunity to arrange the transport chain of their trade with local transport operators.

88. Regardless of which party controls the door-to-door transport, use of the new and more appropriate INCOTERMs would stimulate the use of multimodal transport and would offer local transport operators an opportunity to participate in the transport of the country's international trade. However, this implies that developing countries' traders must be able to rely on efficient services from their local transport operators. Unfortunately, in many countries, traders do not trust the capabilities of their local transport operators and prefer to have a foreign operator organize their door-to-door transport operations.

3. *Commercial and banking practices*

(a) Export financing

89. In many developing countries, manufacturers have difficulties in obtaining export finance provisions from local financial institutions. This partly explains the dominance of foreign-controlled export firms which can obtain the required finance from their principals abroad. For local shippers to gain control of exports, they must have access to export finance enabling them to control all stages of the transport. Commercial banks are the main source of export financing. However, they may not give high priority to export financing, especially for non-traditional exports where the degree of trade risk is high.

90. Developing countries' Governments should design schemes aimed at increasing the ability and interest of the commercial banks in providing export finance. Possible measures are: (a) creation of export insurance institutions, (b) acting as guarantors for loans given for export finance, and (c) arrangements for re-financing facilities for the commercial banks. When the volume of export activities has increased significantly, Governments may create specialized export banks in order to expand export financing resources and generally to improve financing services.[18]

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[18] For a detailed discussion of the problem of export financing in developing countries, see The administration of incentives for industrial exports in developing countries, (UNCTAD/ST/MD/17) and Export credit insurance as a means of expanding and diversifying exports of manufactures from the developing countries, (TD/B/C.2/158).

(b) Banking practices

91. Although most banks, at least in developed countries, adhere to the ICC Documentary Credits recommendations (UCP),[19] there is no compulsion to apply them to the letter. This is particularly so in developing countries. The result is that, although the 1983 revision allows the use of combined transport documents which indicate that the transport operator has taken charge of the goods in a place different from the port of loading, many banks, particularly smaller branch offices in developing countries, continue to insist on "on-board bills of lading". Such conservatism inhibits the development of multimodal transport. Such practices need to be changed if multimodal transport operations are to function efficiently. Current practice may not allow, for example, a transport operator from a land-locked developing country to issue a transport document covering the movement of goods from the shipper's premises to their final destination. Transport contracts may have to be broken down into, at least, two parts. One is national, governed by locally adopted measures; the other is international and follows international procedures. For exports, this means that the goods will have to move on one or more transport documents (road/rail/inland waterway), and only at the ocean port of loading will a bill of lading be issued. This bill of lading then has to be returned to the shipper in the land-locked country and only then can he go to his bank to have it negotiated. This procedure can easily take two to three weeks with the resulting heavy financial consequences while resources are tied up. It may also result in unnecessary delays at interface points, which means that the exporter loses several of the potential benefits of multimodal transport. Another documentary credit condition may be that the goods must be inspected and certified for animal or plant health reasons "in the seaport immediately prior to loading". This prevents inspection and certification of the goods at an inland clearance depot (ICD) before being stuffed into a container or it may mean that the container must be opened and re-inspected at the port of loading, again losing valuable time and adding to the costs. The possibility of inspection and certification at the inland point of stuffing of the cargo into containers would eliminate this waste.

92. Importers also face other financial problems which commercial domestic banks are unable to solve for one reason or another. Smaller, financially weak importers may be unable to finance the inland movements of goods from the port of discharge to final destination. In many cases credit is then extended by (foreign) transport operators who would undertake this transport in exchange for nomination as carriers for the entire transport movement. This restricts the importer's ability to select other transport providers, for example, indigenous ones.

93. Domestic banks should examine critically their existing practices for the issuance of documentary credits to see if they are really justified. Some of them may reflect official requirements in the importing country and could only be changed with Government agreement. Others may reflect outmoded commercial and banking practices which might easily be changed to fit modern transport needs and boost their own local economy.

(c) Insurance practices

94. Another problem is that of obtaining proper insurance coverage. In many developing countries, the law governing responsibility is usually set forth in the commercial code and reinforced by regulations for the operation of public transport companies that are binding on the users. Such laws are characterized by numerous clauses establishing levels of liability of the various modes of inland carriers. These levels of liability are often very low, non-existent or based on outdated rules that are not suitable for use with modern transport. In a number of ports, monopoly state agencies often disclaim all liability for damages, theft or loss in connection with goods loaded or discharged. In contrast, the larger private transport enterprises, along with major freight-forwarding companies, generally accept some responsibility for cargo in their care. Assigning responsibility to public carriers would not be a major problem if the domestic insurance system functioned properly. This, unfortunately, is not always the case. The law making transport insurance compulsory is generally not obeyed. The major public transport companies often act as their own insurers, but since they often exempt themselves from liability, a large part of the transport has no liability cover at all. This discourages ocean carriers from using these services. But even when they do, these practices have a negative effect on the overall transport cost. In the

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19 *Uniform Customs and Practice for Documentary Credits*, International Chamber of Commerce publication No. 400, Paris, 1983.

case of transport provided by a public enterprise, the cost of the official insurance is included in the tariff but, since that insurance really does not exist, it is necessary to take out supplementary cover, and this raises the price of the goods by 1 to 2 per cent.

(d) Quality of services

95. Another consideration which affects shippers' decision to select a particular transport operator for their international transport is the assistance and services they might obtain from such an operator. In developed countries, traders are seeking creative and innovative transport partners who will share risks and rewards and offer full cooperation in order to obtain the objectives of safe product transport, economy, forward planning, incorporation of new technologies and expanded use of communication systems. They will select their partners on quality criteria. Although there is no unanimity among shippers on what such criteria should be, one large American multimodal transport operator, the American President Companies, carried out a survey in early 1989 showing that the highest number of surveyed shippers listed *on-time delivery* as the most important criterion. *Overall responsiveness to customer's needs* came next, followed by *price; on-time pickup; transit time; service territory, i.e. area size and number of offices; billing accuracy; ability to provide the size of equipment needed; degree of control over the service provided; claims processing ease and timeliness;* and *tracing capabilities*. A more recent survey,[20] carried out in the fall of 1990 by the National Association of Purchasing Management and the College of Business at Arizona State University, indicated that, out of the 678 United States companies interviewed on the factors which influence the selection of carriers, *on-time delivery* topped the list (25 per cent of the possible ranking points). *Price* was second (18 per cent) followed by *geographic coverage and time in transit* (both 10 per cent), *shipment tracing and care in handling* (both 6 per cent), *financial conditions of the carrier* (5 per cent) and *door-to-door deliveries* (4 per cent).

96. Quality of services is equally important in developing countries, because of the fierce competition in international trade which demands timely delivered products at competitive prices. Some developing countries have comparative advantages, such as cheap labour, but their exports may be more expensive than similar exports from other developing countries simply because of excessive export procedures and transport costs. Similarly, overseas buyers may be deterred from using a particular country as a source of supply on account of inadequate services, long transit times, or irregular time-tables. A case in point is that of West African cocoa producers who lost to Central America competitors a 40-year old contractual relationship they had had with European chocolate manufacturers, simply because the way their competitors packaged and delivered the product was more economical for the importers.[21]

(e) Market organization

97. In many developing countries, producers and consumers of general cargoes rely on a number of intermediaries engaged in processing, trading, export, import and shipping to buyers and sellers overseas. As a result, there are large variations in import/export channels and practices which are governed by different economic interests. Because of the multiplicity of intermediairies and marketing channels, transport users have not been able to form strong, widely recognized associations. Such associations are necessary for the users to negotiate effectively with transport providers and Governments in order to obtain an acceptable level of services.

B. Problems faced by commercial parties: the supply side

98. In any country, the supply of transport services depends on the level of development of the transport infrastructure and equipment (modes and interfaces), on the operation of such infrastructure and equipment, and on the commercial conditions prevailing in the country. The

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20 Gordon, Jay, "Inbound buying habits die hard", *Distribution*, Chilton Co., Radnor, PA, March 1991, pp. 38-42.

21 *Intermodal Asia*, Summer 1989, Lloyd's of London Press (Far East) Ltd., Hong Kong, 1989, pp. 16-23.

supply of international transport services requires, in addition, managerial capacities to assemble and coordinate the various transport operations.

99. International transport to and from developing countries is provided by two large but financially unbalanced classes of transport operators. On the one hand, these are the shipping companies which traditionally carry cargo from port-to-port. On the other hand, there are the freight forwarders which sometimes arrange the transport of goods from door-to-door. Shipping companies, particularly foreign ones, several years ago started offering door-to-door transport services and accepting responsibility from door to door. Thus they became vessel operating multimodal transport operators (VO-MTOs). National shipping companies, however, have so far given little attention to offering such integrated services. International freight forwarders have long organized door-to-door transport operations but do not systematically accept the accompanying measure of responsibility. The more progressive ones, however, do increasingly accept the transport responsibility, acting as principals, and are becoming *non-vessel operating common carriers (NVOCCs)*, also called *non-vessel operating multimodal transport operators (NVO-MTOs)*.

100. In developing countries, there are many freight forwarders and few NVO-MTOs. The state of the local transport industry relies on a fragmented, disorganized and uncontrolled structure. There is a lack of management competence as well as of expertise at practically all levels of their organizations. Indigenous operators are small and ill-equipped to compete with the foreign operators.

101. The financial fragility of companies owned and managed by nationals is often more precarious than those with full or part foreign ownership and a broader capital base, or those with diversified activities. In most developing countries, no general conditions or minimum standards have been established either by national legislation or by a national association of transport operators. There is generally no professional or financial barrier of entry into the forwarding/MTO business, and this encourages "fly-by-night" or "attaché-case" operators. Their capital base is often limited, inhibiting their ability to face, for example, heavy Customs deposits and guarantees and, more generally, to compete on an equal basis with financially better-endowed competitors. This situation leaves the door open for all types of commercial malpractice which might affect both the shippers and the transport operators.

102. These issues highlight the practical problems faced by transport operators from developing countries in supplying multimodal transport services. They are further discussed under the following headings:

(1) First, problems related to the prevailing commercial conditions, such as:

   (a) Weak economic environment;
   (b) Financial constraints;
   (c) Administrative constraints; and
   (d) International competition and mega-carriers.

(2) Secondly, problems related to the internal organizations of the transport companies, such as:

   (a) Diversity in structure of local transport operators;
   (b) Poorly exploited human-resource capabilities; and
   (c) Lack of representativeness of professional transport associations.

1. Problems related to the prevailing commercial conditions

(a) Weak economic environment

103. In most developing countries, transport and freight forwarding is a sector where many companies compete for business. When the overall level of the national economic activity and, particularly, international trade is stagnant or declining, "vicious circle" phenomena develop: the smaller overall volume of business must be shared among the various transport providers; there are fewer clients; profitability is lower; delays in payment of outstanding sums by the clients often grow longer as they too are affected by the slower rate of growth or decline in activity.

104. International transport operators are generally subject to considerable financial requirements before they can conduct their business. Such requirements, in the form of deposits and bank guarantees, are fixed at extremely high levels by authorities such as Customs and transport administrations (Customs bonds, performance bonds, etc.). Deposits may also be required by some carriers to cover certain types of cargo movements.[22]

105. On the positive side, international transport operators also have access to a considerable cash flow in executing their activities. To obtain the greatest benefit from this cash flow, they must control closely their financial management and obtain proper banking back-up. On the one hand, payments to Customs have to be made in cash or deferred only briefly after taking delivery of the cargo (too short a period in some cases, it would appear). On the other, the transport providers have to collect payment for the services they perform for their clients. Good practice would dictate that this should be done before payment to Customs is made, but it seems that there are often derogations from this fundamental management rule because of competition, desire to satisfy clients, and general liquidity difficulties arising from deterioration in the overall economic environment. International transport providers consequently often give their preferred clients the "right" to maintain a - more or less - permanent overdraft. Consequently, they not only bear the extra financial costs of providing the overdrafts, but also face the financial risks which a single major incident would cause (e.g. a heavy fine from Customs). In financial terms, the organization of international transport operations is a vulnerable activity.

106. The high levels of deposits and bank guarantees required in international transport operations inhibit the development capacity of the smaller and medium-size transport companies. Companies of this size are more vulnerable to liquidity and cash-flow problems. With much of their (limited) capital tied up, they often have difficulty in expanding the scale of their operations and so remain fragile. Similar problems exist for newcomers, notably nationals, who wish to enter the profession. It is something of a "chicken and egg" situation: they cannot operate until they have the required capital but they cannot attain the required level of capitalization until they have a profitable operation. Access to the profession is consequently often only open to those who have accumulated substantial financial means or credentials in other fields. These remarks do not concern the informal or marginal operators who manage to by-pass official financial requirements through "personal contacts" with Customs or government officials. Not having capital overhead costs, they can offer cut-rate services and attract part of the clientele in spite of offering a less reliable service.

(c) Administrative constraints

107. A significant part of the activities of international transport organizers concerns the clearance of cargo through Customs in ports, ICDs and airport zones and at inland borders. A whole series of elements with direct repercussions on the internal organization of such operations fall within their sphere of work. They include the nature of Customs documents, clearing procedures, tariff structures, motives and degree of penalization for infractions, behavioural practices of Customs officials, etc.

108. The extent to which each of these elements affects international transport operators inevitably varies from country to country. While it is fair to say that, generally, freight forwarders and international transport operators, whatever the country, are always ready to offer a good deal of criticism on Customs practices, it is beyond the scope and goal of this report to analyse whether such criticism may on occasion be justified or whether the operators are not themselves sometimes at fault.

109. The UNCTAD secretariat has recently undertaken a survey of freight forwarders. In this connection a series of grievances were voiced. These are summarized below. However, it is recognized that Customs authorities serve a very important function in most countries as collectors of a sizable portion of national revenue. Significant grievances were:

(a) Customs procedures are complex. Procedures for clearing cargo can be tedious and time-consuming (numerous stamps or signatures required at various wickets or at different places where there are usually long queues). Effort to modernize and sim-

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22 See paragraph 84 on page 17.

plify procedures and facilitate Customs clearing should be continuous. However, the real problem appears to be not so much the procedures themselves as the manner in which they are applied. In other words, "human failings" can be considered as a major impediment and lead to time-consuming actions in clearing cargo: delays in inspection of cargo, absenteeism, personal interpretations of official texts, etc.

(b) Information on tariff changes is not adequately circulated, which leads to transport operators making inadvertent errors. This situation varies according to country. There are cases where changes in tariffs are indicated in an official gazette and it is up to the operators to be conversant with this publication. In other cases, tariffs may be modified before official notices are published or they may have been published but the official gazette has not been distributed. Thus, operators cannot be blamed for any errors made as a result.

(c) The application of fines by Customs is often arbitrary and the level of such fines is too high. There appear to have been many complaints in this area. It may well be that grievances about levels are justified but the real problem is again "human failings" - in other words, personal interpretations of official texts deliberately aimed at being a palliative for alleviating social difficulties. Practices of this type can delay the Customs clearance of cargo.

110. Administrative constraints result in:

(a) Excessive time being spent on Customs clearance procedures for which additional staff must be employed and undue delays in the physical flow of cargo; and

(b) Frequent contention and extra costs through the imposition of arbitrary fines and/or the introduction of unpublicized increases in tariffs.

111. Poor education of low or mid-level staff within the Customs clearance department of the transport provider/freight forwarder's office may result in errors being made in the completion of Customs documents. This may in turn lead to long delays in the clearance of the goods and the imposition of fines, none of which is in the interest of efficient cargo transport or overall national economic growth.

(d) International competition and mega-carriers

112. The ever-growing demand by buyers for efficiency in transport through strict application, for example, of the just-in-time (JIT) concept is forcing international transport providers to offer an increasing range of services. It is no longer enough to carry cargo from port to port, or even from point to point. Now, the large MTO offers a full range of services which include source planning, consolidation, reassembly of loads and final distribution to individual stores.[23] This has led to a new level of sophistication among major MTOs, most of which are VO-MTOs from developed countries. These transport providers have become very large and have come to be known as "mega carriers". In fact, mega-MTOs may also be called total distribution operators (TDOs) because they conduct all of the services required by their clients. Although it is possible for a relatively small transport provider to offer such "total services" on a single route, such a "single destination company" would not qualify as a "mega-MTO". A mega-MTO by definition is a huge company offering such services to a great number of destinations.

113. Just as with "traditional" MTOs, mega-MTOs can be divided into vessel-operating mega-MTOs (VO-MMTOs) and non-vessel operating mega-MTOs (NVO-MMTOs). In the shipping industry VO-MMTOs are normally referred to as "megacarriers". This expression, thus, does not include the very large freight forwarding companies which also offer total distribution services although some of these companies would certainly fall within a definition of NVO-MMTOs. The expression "megacarriers" will be used below to cover both VO-MMTOs and NVO-MMTOs although it is accepted that the vast majority of such megacarriers are VO-MMTOs.

114. Megacarriers are large indeed. The ten major container shipping companies, which, by

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[23] For a more detailed descussion of total distribution services can be found in *Information material for shippers to make the most efficient use of multimodal transport* (TD/B/C.4/330).

default, are also the ten largest MTOs, had revenues ranging from just under $US 1 billion, to well over $US 2.5 billion, in 1989. The companies had assets in very much the same range. In other words, for each United States dollar in revenue, the companies had one dollar in assets. It has been said by one commentator that "the megacarriers are really engaged in asset management - a field of fewer and bigger players - rather than in shipping."[24] They often control, directly or indirectly, most of the modes of transport used in their transport chains. A prime example is the American conglomerate CSX, which controls railways, trucks, barge operators and shipping companies.

115. In the absense of a more precise definition, it may be said that a megacarrier is:

> **"a huge transport provider offering to its clients a total package of transport-related services, often more in a partnership than in the traditional provider/user relationship, to a large number of destinations, with assets and revenues of at least $US 1 billion each, controlling directly or indirectly practically all of the component parts of their transport chains."**

It would appear from this definition that not a single MTO from developing countries falls under this rubric.

116. For developing countries the question now becomes, is the development of megacarriers good or bad? A "straight answer" is not possible. It would be easy to say that it is bad, because practically all current megacarriers come from developed countries, but that in itself hardly qualifies as being "bad" and it must not be forgotten that the megacarriers provide essential services to shippers from developing countries in that they enable them to offer to foreign buyers goods packaged and delivered exactly according to their wishes. The buyers' wishes may in fact be "absolute demands" that cargoes arrive according to the JIT concept or that goods be delivered directly to supermarkets etc.

117. In other words, without megacarriers, developed countries' importers might reject offers of goods from producers in developing countries because they could not deliver to the exacting schedules of the importers. If this argument is accepted, then megacarriers provide developing countries' producers with essential services and thereby help earn foreign exchange for the countries.

118. Another question therefore must be, is there any hope of the emergence of a developing country megacarrier? The same commentator quoted above also said, "I forsee enormous concentration in the business, where there is little room for niche operators..."[25] If this statement is taken at face value, it implies that MTOs from developing countries will be squeezed out of business by the very small, and shrinking, number of VO-MMTOs.

119. The consequence of such pressure on established MTOs from developing countries could be that unless they achieve a massive concentration, they will not survive in this battle of the survival of the fittest. This may very well be an overly pessimistic assessment of the future, but it would at least indicate that there is an urgent need to investigate the likely consequences of the development of megacarriers. The Committee on Shipping apparently held this view when it adopted resolution 67 (XIV), 3 (b) calling on the secretariat to prepare "a report on practical problems faced by Governments and commercial parties in multimodal transport and/or container operators **including the possible effects of mega multimodal transport operators on the total distribution systems in the context of multimodal transport from and to developing countries**". As a consequence, the secretariat will be preparing an in-depth report to the fifteenth session of the Committee on Shipping.

2. *Problems related to the internal organization of transport companies*

(a) Diversity in the structure of transport operators

120. International transport companies in a country do not operate on an equal footing. The

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24 Wilkinson, H., Manufacturers Hanover Trust Company, as quoted in *Containerisation International*, London, January 1990.

25 Ibid.

profession is characterized by considerable disparities in the size and organization of companies. Factors such as size and organization have a direct effect on the range and reliability of services offered to clients, on the capacity to market these services and to establish international contacts, on the degree of vulnerability to economic circumstances, as well as on the level of professional training and human-resource development opportunities given to employees.

121. The case studies carried out by the UNCTAD secretariat in connection with a major UNDP-funded technical assistance project[26] have made it possible to identify four main groups of enterprises participating in international transport activities. Although the case studies were limited to Africa, many of the findings may have a global application:

Group 1

This group comprises the most important enterprises in terms of capital, organization, number of employees, physical facilities and equipment. The companies are often local subsidiaries of large foreign groups, although local legislation may require 51 per cent of their capital to be nationally owned. The enterprises are characterized by a sound structural organization (organigram with clearly defined functions), the application of modern management techniques (frequently under the control of expatriate senior managers) and are closely connected to international transport networks.

Group 2

This group comprises enterprises which are controlled by members of ethnic groups of foreign origin, many of whom have become nationals of the country concerned or are nationals by birth. In some cases, these groups have become implanted relatively recently (e.g. Lebanese in West Africa, established mostly after independence). In other cases, their group's presence is already long-established (e.g. Asians in East Africa since the preceding century). This type of enterprises is smaller and not as well-structured as Group 1 companies. However, they tend to benefit from the strong support provided by other members of their respective ethnic groups who often occupy key positions in trade and industry sectors.

Group 3

This group comprises enterprises with exclusively national (local) capital. Such enterprises have generally entered the international transport sector recently (mainly in the last decade). They lack a strong financial basis and face some problems in management and organization. They have difficulty in obtaining a modest share of the market and, when secured, have to struggle to retain it in the long-term. They rarely have international contacts and do not master the international transport chain very well. However, they offer support for national import and export trade. In most cases, their situation remains vulnerable in the context of weak economic growth.

Group 4

This group consists of informal operators who have neither an appropriate structure nor legal existence. They have become numerous. They do not pay license fees or taxes and encroach on the individual consignments market in which they manage to provide cheaper services than those offered by established transport operators. Their activity is mostly limited to Customs clearance where their "personal contacts" are valuable.

122. To these four groups, one may add some trading companies that organize their own transport, perform their own clearance and forwarding for their own needs and have established in their organization a special department for this activity.

123. Each group must seek its niche in the international transport market according to its respective scale of operations and the specific comparative advantages it can offer. For example, large companies are in a better position to engage in forwarding activities, particularly towards inland destinations, than are companies from Group 4, for example. If trucking is desirable or mandatory, the big companies may operate their own fleet of trucks or take advantage of the large volumes of cargo which they must move to sub-contract such an operation on profitable terms.

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26 *"Institutional Development and Human Resource Development of Freight Forwarding and Multimodal Transport Organizations in Sub-Saharan Africa"*, UNDP Project RAF 89/028, Geneva, September 1990.

Smaller (national) companies, without their own transport equipment and without a sufficiently large or regular volume of traffic to negotiate a long-term sub-contract, are at a disadvantage and excluded from this type of transport activity.

124. The existence of numerous international transport enterprises is a positive factor in a country's transport industry. It stimulates competition, which brings better quality services at lower prices. This allows the transport users to obtain improved, cost-efficient services to the benefit of the overall national economy. It also encourages operators to perform better if they are to survive. This situation has a positive impact on the development of national (local) enterprises, as it may induce companies to improve their management capabilities and to institute appropriate training of their employees.

125. It is clear, however, that companies of the Group 3 type have difficulty in attaining a leading position in the industry. Their limited financial base is a handicap in view of the high levels of deposits, guarantees and obligations required in many operations. Their limited contact with foreign transport groups is also a handicap.

(b) Poorly exploited human-resource capabilities

126. The national economies of some developing countries are not robust and their international trade is declining. This results in lower transport demand. When this occurs, transport providers halt the recruitment of new staff or may even resort to lay-offs of employees. For example, in Senegal, the slow down in foreign trade and shipping activities in 1990 forced a freight forwarder to lay off more than a third of its workforce, while between 1988 and 1989 the staff of another company was reduced by half. Otherwise, recruitment and firing are reported to be rare. Firing generally results from cases of serious misdemeanour requiring a replacement. Curiously, promotion within a company is also infrequent.

127. There is not a great movement of staff in the freight forwarding and MTO companies. Few companies offer their employees established career development plans. The incentive system is very limited. Companies do not offer their employees fringe benefits such as housing, a company restaurant or cafeteria with free or reduced-rate meals, service vehicules (except, in some cases, for managers). Incentives measures, when they exist, often take the form of a certain paternalistic attitude in facilitating vacations, leave, or company loans to personnel (housing, car, family events, etc.). Certain incentives are, however, provided when some responsibility is involved (e.g. for employees responsible for signing certain documents). Compensation may be given to employees who use their own vehicles in the performance of their professional duties. Such measures, when offered, often result in substantial additional income to the recipient. In view of the scarcity of incentives, it is not surprising that employees are generally not motivated by their work. However, in spite of this, they show little or no interest in looking for a better job elsewhere and prefer to continue working where they are and leave the company only on retirement. In other words, there is little or no mobility within the industry.

128. This absence of junior and mid-level staff mobility is not compensated by internal promotion prospects. Increases in wages follow a pre-determined plan in which employee merit is barely taken into consideration. The question of whether the company functions and operates properly is never raised directly by employees or by "quality circle groups", when they exist.

129. The mobility of well-qualified senior managers in transport companies, on the other hand, appears to be higher than for the lower grades. These managers are primarily sought after by other companies within the industry, rather than by companies from other sectors. To be promoted, an employee must change from one company to another.

130. This situation results in a structural rigidity in which neither the employee nor the company is interested in improving the daily tasks. Only a few very large, well-structured freight forwarding companies have established appropriate systems for the regular evaluation and improvement of their employees' performances.

131. Professional training is one way to improve staff qualifications and, consequently, company efficiency. It would also offer employees a possiblity to increase their individual professional potential and to open up career development opportunities. When coupled with a policy of in-house mobility and promotion this would go a long way towards enhancing professional quality. How

ever, this is seldom considered since, in most of the companies, there is a lack of systematic and precise evaluation of personnel. As a consequence, performance criteria are not clearly stated and the evaluation process, when it exists, is limited to a subjective and personal appreciation of the employee by his superior. Personnel management strategy is based on: *"each one in his place and role"* and it refuses to look at the situation from an employee's perspective of evolution within the company.

132. The methods of recruitment depend on the size of the transport provider. In certain Group 1 companies, recruitment is through an organized selection process based on a description of tasks and on a search for the most suitable candidate to fill the job. Staff is recruited after having passed successfully an internal examination designed to evaluate the professional knowledge and capacities of the candidate.

133. In Group 2 companies, the recruitment process is more flexible. It is often based on personal relationships between the candidate and the management and/or on possible short-term on-the-job experience gained by the candidate within the company. However, recruits generally have to go through a probationary period (two to three months) before receiving a permanent contract.

134. In Group 3 companies, the situation is similar to that of Group 2, but it also happens that the general manager directly recruits and, sometimes, imposes his choice of managerial and supervisory staff. The resultant recruit is not always competent and efficient, which may entrain additional costs for the company. However, the probationary period in the company is invariably maintained.

135. There is generally no recruitment process for Group 4 companies which usually have an extremely limited staff, sometimes only one single person: the owner/proprietor.

136. Since except for Group 1 companies recruitment is generally not based on clearly stated terms of reference for the job opening/vacancy, the selection cannot be made on the basis of appropriate criteria because there is no yardstick for comparing a candidate's capabilities with the job requirements. The recruit basically learns on the job.

137. Each company should ideally establish a formal recruitment procedure. The procedure may be more or less sophisticated, depending on the size of the company. It could be drawn up with the assistance of the national transport association in order to establish industry-wide norms. When a position within the company becomes vacant or is newly created, the recruitment process should always be initiated by a clear identification of the terms of reference of the post to be filled. The national association of freight forwarders and MTOs could develop a set of model terms of reference for each of the basic functions encountered in any company of the industry. Fulfilment of such a task would be a prerequisite for the design of a pertinent training programme. Once the terms of reference had been drawn up, it might be desirable to consider internal promotion candidates before initiating a procedure for external recruitment. If no internal candidate has the requisite qualifications, and as long as the basic requirements stipulated in the terms of reference are fulfilled, external recruitment has the advantage of selecting a "fresh" candidate whose knowledge and experience can bring innovation and dynamism into the company.

138. From the case studies previously mentioned, it has been observed that the staff of international transport companies may be divided into two groups: (a) junior and mid-level staff (representing, on the average, about 90 per cent of the total workforce), and (b) the managers and executives. Most of the expatriates employed in the transport industry are found in the later group. Managers direct and control the complicated and delicate process of Customs clearance and forwarding operations from beginning to end. This represents an impressive amount of work. Routine administrative tasks are accomplished by mid-level staff, with the support of lower-level employees who execute paper-pushing Customs clearance assignments outside the office.

139. According to the findings of the case studies, managers consider that their staff generally has the intellectual capacity to carry out the work correctly, but that they lack professional consciousness and capability to take spontaneous initiatives in solving problems which arise. The employees' work is frequently judged as inconsistent or irregular and often reflects the managers' view of a limited effort having been made. This is why managers devote a large part of their time to the task of verifying and controlling all the work carried out by their subordinates. If any problem occurs, such as damaged or missing cargo, disputes with Customs, undue delays, unpaid clients' bills, etc., it percolates back up through the hierarchy until it reaches a level where a solution can be found and a decision taken. As a result, unsolved problems increase the managers'

workloads and affect their managerial functions. This reflects the pyramidal structure of a decision process in which little or no delegation of power takes place.

140. Exceptionally, in Group 1 companies, working groups are created by senior management in order to analyse such issues as information and data management, analytical studies and preparation for important decisions. Such "general management committees" give the staff an opportunity to meet regularly, for example, once a week, with an agenda - requiring preparation which excludes improvisation - and which results in a report. In some cases, specialized working groups are created on an *ad hoc* basis for specific tasks: for instance, a management-control committee might prepare budgetary and cash-flow analyses, a personnel and training committee might make recommendations on salary increases, a computer committee might coordinate the use of computers within the company. These specialized committees are habitually chaired by the general manager and only the staff concerned participates. In most of the other companies, decision-making takes place during informal and un-programmed meetings at the general manager's discretion.

141. To ameliorate this performance, companies must review their hierarchical structure. Management must accept a gradual delegation of power by setting, at each level of responsibility, indicators of performance related to specific objectives or contracts: e.g. number of clients' files processed, limits on customers' overdrafts, maximum number of claims accepted, etc. Management must therefore develop an information strategy which would give each employee an increased awareness of the objectives, functions and activities of his freight-forwarding company, as well as a better understanding of his own functions and role within the company. It would be advisable if this strategy could be open to dialogue with the staff. Likewise relevant feedback should be taken into consideration in formulating the strategy. Furthermore, companies should create the possibility of internal mobility of employees between various job assignments.

142. Training is not integrated into most transport companies' development plans mainly because these companies have not established the proper structures to respond to their own specific training needs. Usually, only Group 1 companies have set up internal training structure to off-set the absence of a national training institution capable of preparing their employees for their work. While training may not be integrated into all companies, most have at least thought about it. The various groups have different policies on professional training, depending on their size. Groups 3 and 4 companies have more problems in organizing their professional training than the better-structured companies of Groups 1 and 2. Medium-sized companies sometimes look to private training institutions to organize periodic training sessions with the participation of professional lecturers.

143. Considering that international trade and transport is a very active field which interacts with banks, insurance, Customs and the development of transport technology, transport providers such as freight forwarders and MTOs must keep track of all changes in commercial practices and transport operations if they are to be of service to their countries. In order to be competitive, these companies need to update regularly their knowledge of the market. They must also develop and maintain internal business management capabilities. Without properly designed training structures, employees can only learn their job by performing it. This is both time-consuming and ineffective, since the task they learn on the job might be done better, something which the employee is unable to learn from his predecessor.

144. In order to improve its efficiency, a company needs regular training of its employees. Training is required in the area of general company management as well as in specific fields related to trade, banking, insurance, Customs and multimodal transport operations. Such training might come from different sources. In some cases, companies might set up their own internal training units to fulfil their perceived needs. In other cases, training must be found outside the company. Here various options are available. On the one hand, specific institutions related to the industry might organize seminars aimed at improving the international trade and transport of the country. Such seminars are usually designed not only for importers and exporters, but also for transport operators. On the other hand, universities or specialized training institutions might offer broad curricula or specific seminars related to international trade and transport. Finally, a national professional association of freight forwarders and MTOs might take the initiative of organizing regular training sessions covering the basic needs of its members. This last option is probably the most appropriate to serve the profession and might very well call upon resources available from the two other options. It would create a common training structure for the trade and transport sector in the country. The objective of this structure would be to offer a training programme fitted

to the professional needs of the companies. It would include the delivery of courses, seminars and workshops as well as the evaluation of the impact of these training exercises on the recipient companies.

(c) Lack of representativeness of professional transport associations

145. In a number of developing countries, there is no professional organization recognized by government entities as representing all or the majority of the transport companies operating in the country. In some cases, there is no such organization or the existing one does not speak for the profession. In other cases, there are two or more associations claiming to represent and defend the interests of their members. These associations generally gather sub-elements of the profession such as air-freight forwarders, ocean-freight forwarders, Customs agent-freight forwarders, etc. This is a reflection of the lack of proper identity perceived by the industry itself and the need it has to cluster around a particular mode of transport or a particular function. The result is that the professional associations lack credibility in the eyes of the authorities and other commercial parties since they are too small to be sufficiently representative. When governmental decisions are being made related to the international transport of the country's goods, these associations are normally not consulted but even when they are their negotiating power is limited. Such associations are often managed on a "part-time" basis with the coordination, dispatching and "paper-pushing" of the daily tasks of the association done through the good-will of a few members offering their support in addition to running their own businesses.

146. As in any economic and social sector, a professional association of international transport operators has an important role to play, not only in relation to other economic and commercial parties, but also for its own members. It must express the unified position of the profession on key issues affecting international trade and transport. It must also crystallize acceptable standard professional practices into the form of a "code of conduct", "code of ethics" or "general standard rules and practices" to which all members of the association are bound. Finally, it must provide some type of services to its members: professional training structure, regular publication, specialized information, financial facilities, etc.

147. A well-functioning national professional association, headed by recognized individuals, is likely to be invited to express the views of the profession and, when necessary, to defend its interests in national and sub-regional meetings related to trade and transport. As a consequence, government officials and commercial parties will develop a better understanding of the role of the profession, and react positively to reasonable proposals presented by its representatives. A professional association can also assist national transport operators in becoming better prepared to perform their daily tasks through regular information and/or training on local regulations and procedures, on new technologies such as containerization and EDI or new international transport developments. By providing ways and means for improvement of the industry, it can also establish prerequisites for members to join the association. These prerequisites, or minimum standards, can be used to prevent the proliferation of informal operators. This will help to promote the image of a selective, competent profession.

148. However, a professional association cannot be constituted by "decree". It must develop from the transport operators' own desire to form a responsible group of professionals (similar in-house standards, rules, practices, as well as similar professional capabilities). Membership in the association should remain voluntary. Convincing information and recuitment campaigns should be organized regularly to tell transport operators about the main activities of the association and of the benefits they will derive from membership. In this way, information campaigns will become recruitment campaigns to enlist new members. However, recruitment of new members should follow a formal and strict procedure. It is not enough to register and pay annual fees. The agreed minimum standards must be maintained. Furthermore, the association will need committed members. It is clear that an association is a "living body": it appears, grows, matures, suffers illnesses, recovers and finally dies. In the early days of any association, the dynamics depend on the selected few who are managing the association. Once the association has been launched and becomes an "institution", then the leadership can be passed onto professional managers.

149. In order for membership to be attractive, the association should be able to demonstrate clearly the advantages or benefits a member may gain from joining. The realization by transport users that members of its association have a certain, recognized level of competence and that they

may lose business by abstaining from membership and thus not be seen as having this level of competence, will be an important incentive for joining. Apart from setting minimum standards, the provision of training and information which will help members maintain such standards is probably the most useful activity an association could provide. At a more sophisticated level is the organization of a "think tank" of competent professionals who could generate recommendations to the profession and to the Government on ways and means to improve services and, thereby, stimulate international trade. By so doing, the association would demonstrate maturity and be considered as a reliable partner in the national economy. The broad objectives of such an association could be:

(1) To set and ensure the maintenance of acceptable minimum standards of its members for the general benefit of the nation;

(2) To act as a spokesman *vis-à-vis* the Government, transport users and other organizations which deal on a regular basis with the members;

(3) To hold meetings for the presentation and discussion of information and original thought on transport, particularly as it relates to the national situation;

(4) To conduct an examination of applicants leading to corporate membership in the association; and

(5) To provide important ancillary services, such as:

(a) The publication of a journal,
(b) Provision of a library;
(c) Organization of training of the staff of members; and
(d) The granting of study awards.

150. Freight forwarders and MTOs are generally considered as commercial enterprises. They are usually registered under the code of commerce but membership of a professional association is not mandatory. The intervention by the Government making mandatory membership in an association before being allowed to exercise the profession would be an extreme solution. It would give great force to the organization and enable high standards to be set. However, in such a case it would be necessary to avoid a "closed-shop" situation. The entry of new members would have to be facilitated as long as they were able to fulfil basic professional requirements established by the association. The question of mandatory *versus* voluntary membership is a delicate one and depends very much on local conditions. One approach could be to let membership be voluntary but to channel all governmental commercial transactions through operators who were members of the national association.

151. Finally, it is important that such professional associations be established with a permanent secretariat supported by adequate staff, offices and equipment. These elements will no doubt have to be financed from membership fees, for example, from some levy system based on gross turnover or declared profit, etc. or from income earned by the association's activities (seminars, publications, provision of model transport documents, etc.). The financial health of an association is a vital issue. Observations in the countries visited while the UNCTAD case studies were being prepared show that associations do not generate sufficient incomes to cover the expenses of running an efficient secretariat. Effective associations must find a solution to this problem.

Chapter III

POSSIBLE SOLUTIONS

152. The list of problems detailed in the previous chapters is not exhaustive. It shows that the situation is far from easy to resolve, yet it also demonstrates that there is an urgent need for action at various levels, (a) commercial, (b) governmental and (c) intergovernmental. In many cases the three main parties will have to work together to achieve the desired results. The possible solutions outlined in this chapter all address the issues faced by developing countries either directly or indirectly.

A. Actions to be taken primarily by the commercial parties

153. By "commercial parties" is understood transport providers and users, as well as banks, insurers and other transport-related companies, whether in fact these are government controlled or not.

1. Actions by transport providers

154. Transport providers from developing countries are except for a tiny minority financially and managerially very weak. If they are to survive as independent organizations in their countries' international trade, they must take urgent steps to improve their situation. The following short list of possible actions is not exhaustive but rather representative:

(1) Strategic actions:

- (a) Focus on areas where competitiveness is optimal;
- (b) Identify/eliminate non-productive areas;
- (c) Identify new areas for action (such as total logistics services);
- (d) Increase the capital base (possibly through mergers or joint ventures);
- (e) Strengthen/create effective national transport associations;
- (f) Institute regular exchanges with:
  - (i) Clients;
  - (ii) Competitors;
  - (iii) Sub-contractors/main contractors to facilitate the introduction of multimodal transport, including possible extention of services to offer full "total distribution services";
  - (iv) Banks/insurance companies; and
  - (v) Governmental agencies, including Customs.

(2) Managerial actions:

- (a) Improve managerial skills;
- (b) Implement modern recruiting and promotion procedures;
- (c) Commence training at all levels of staff;
- (d) Simplify office routines;

(3) Marketing actions:

- (a) Pay greater attention to sales and marketing;
- (b) Review own tariff structures;
- (c) Review sub-contractor tariffs;

(4) Operational actions:

- (a) Implement planned maintenance of own equipment;
- (b) Introduce electronic data processing (EDP) and electronic data interchange (EDI).

2. Actions by transport users

155. Transport users, whether from developing countries or not, must insist on the best possible level of service at the most competitive price - though not necessarily the lowest direct transport cost. In order to select the transport provider best suited to answering their needs, the transport users should:

(1) Know their clients better by:

(a) Identifying main (regular) clients;
(b) Instituting close consultations with their main clients in order to arrive at most efficient/cost-effective transport chain;
(c) Agreeing with buyers/sellers to switch from unsuitable fob/cif INCOTERMs to new, multimodal transport-friendly fca/cip terms;

(2) Know their transport providers better by:

(a) Scrutinizing the level of service of all transport providers presently used;
(b) Scrutinizing the level of service of possible alternative transport providers;
(c) Instituting regular consultations with all transport providers;

(3) Improve their own organization by:

(a) Improving managerial skills;
(b) Increasing their capital base (possibly through mergers or joint ventures);
(c) Simplifying office routines as they relate to transport issues;

(4) Get more involved in transport issues by:

(a) Identifying points where cargo may become damaged, then seek to eliminate reasons for damage, alternatively change transport route/provider to avert future damage to cargo;
(b) Instituting other regular exchanges on transport issues with:
(i) Clients;
(ii) Competitors;
(iii) Banks/insurance companies; and
(iv) Governmental agencies including Customs.

3. Action by other commercial parties

156. In addition to the two main parties to a transport contract, other organizations also have a direct interest in transport issues. These organizations include banks and insurance companies. They should *inter alia*:

(a) Implement recognition of latest version of the ICC UPC;
(b) Encourage traders to use new fca/cip INCOTERMs;
(c) Consider extending credit facilities to cover inland transport costs of imported goods;
(d) Encourage clients to take out insurance policies which are tailor-made for multimodal transport;

B. Actions to be taken primarily by governmental parties

157. Under the heading of "governmental parties" is understood not only ministries, but also para-statal organizations such as port authorities, ICDs or Customs.

158. The following are possible areas for action which might be pursued by Governments with a view to promoting multimodal transport operations. This action should be developed within the

framework of an overall strategy which should, *inter alia*, be:[27]

(a) Based on a cost-effective use of resources in relation to the nations' benefits accruing from international trade;
(b) Trade-oriented, responsive to market needs and based on market principles;
(c) Equitable in dealing with the various modes and forms of transport;
(d) Aimed at fostering the nation's transport technology and expertise; and
(e) Flexible enough to address varying circumstances and needs of international trade and technological developments.

159. This strategy could be implemented through various means:

Policy: Changes in the concepts of transport and trade facilitation;

Legal: Updating of legislation and regulations;

Institutional: Changes in the structure of public and professional agencies;

Administrative: Changes in public administration working methods;

Human: Training and performance motivation; and

Material: Increased availability of data processing equipment.

1. Infrastructure and technological developments

160. Specific actions related to infrastructure and technological developments would, *inter alia*:

(a) Increase the quality and maintenance of major transport infrastructure (road, rail, inland waterways, interface facilities).

(b) Concentrate resources by identifying the most suitable locations of new interface facilities (ports, airports, marshalling yards, warehouses, distribution centres, etc.) and increasing the capacity of existing ones when and where required. Possible cooperation for the development of regional transport capacities should be considered, e.g., a container terminal within the framework of a port load-centre including transhipment and feeder services as a package.

(c) Promote the establishment of national and sub-regional measures directly aimed at optimum utilization of existing transport facilities (e.g. equipment interchange agreements, bilateral transport agreements, etc.).

(d) Support private sector proposals on terminal leasing, equipment leasing, and improved terminal handling contract clauses which would reduce the commercial risk inherent in the provision and operation of container terminals for developing countries.

(e) Promote integrated information systems by supporting the increased use of compatible communication in integrated information systems and by promoting compatible hardware of information systems. In view of the increasing need for computerized exchange of data (commercial, Customs, regulatory, etc.), it is essential to standardize the means of communications. Compatibility of language and access facilities should be stressed.

2. Transport policy issues

161. Specific actions related to transport policy issues would, *inter alia*:

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[27] L. Chao, T. Larson, A. Kane and W. Burnett, "Development of a National Transport Policy, the process and the product", *TR News*, Transportation Research Board, National Research Council (Washington, U.S.A.), No.149 (July-August 1990).

(a) At the national level

(1) Promote balanced development of modes so that they could meet the transport quality requirements of an increasing individualized transport demand;

(2) Revise/redraft laws containing transport directives to state or indicate clearly:

(a) The rights to transport and the conditions under which it operates;
(b) The conditions governing competition within the transport sector and the role of the different modes;
(c) The possible private and public resources available for financing of the required investments and of the operations of any particular mode;
(d) The role of the various governmental agencies responsible for regulation;
(e) The role of the various parastatal entities offering transport services;
(f) The principles of liability applicable to transport operators, with a view to harmonizing the principle of custody over the goods transported between the various modes;
(g) The rules governing private enterprises in the provision of transport and ancilliary services;
(h) The relationship between the national laws and applicable international transport instruments.

(3) Define transport regulatory items to foster logistics chains, such as:

(a) Promotion of standardization of technical transport equipment (e.g. rolling stock, containers, swap bodies, etc.); and
(b) Establishment of pricing principles which encourage the use of containerized shipments and favour the use of multimodal transport. These principles would cover, for example, rates for public and private services as well as international door-to-door tariffs. They should take into account not only traditional factors such as distance, weight and value of goods, but also factors related to the quality of service such as regularity, frequency, or to the volume of trade.

(4) Create the institutional, legal and economic conditions for modern management of cargo flows, including:

(a) Revision and up-date of Customs law to take into account information and transport technology developments;
(b) Reduction of offices intervening in Customs procedures and decentralization of the Customs administration to expedite Customs clearance;
(c) Reduction of border formalities (e.g. Customs, sanitary and phytosanitary control, technical inspections);
(d) Simplification, standardization and harmonization of documents and procedures to conform as closely as possible to international practice (United Nations layout key); and
(e) Introduction of standardized and internationally harmonized multimodal transport documents.

These actions should be coordinated and the responsibility for their implementation could be delegated to a trade and transport facilitation committee (see Annex);

(5) Stimulate cooperation between national partners of the transport chain through joint ventures, consortia, etc.;

(6) Call upon the active participation of the private sector (through freight forwarders and MTOs associations, shippers' councils and chambers of commerce) in the governmental decision process on trade and transport-related issues;

(7) Review civil servants' salaries in the light of local circumstances to stimulate moral practices in the operation of public services;

(8) Implement specific transport operation improvements such as: formation of block trains or granting of container-terminal concessions to mixed-economy companies that operate in accordance with commercial regulations (rather than legal norms governing public enterprises), or to private companies;

(9) Provide guidelines to update commercial banking and insurance practices, in line with international practices recommended by the International Chamber of Commerce; and

(10) Stimulate private investments in training, possibly through professional associations or chambers of commerce, to enable the staff of transport companies to adjust to new forms of organization and to prepare specialists in logistics and international transport.

(b) At sub-regional level

(1) Develop sub-regional cooperation projects on infrastructure developments and services:

(a) Joint project planning;
(b) Principles on financing of international infrastructure;
(c) Rights and obligations of providers and users of infrastructure;
(d) Policy support for infrastructure projects as well as for projects at the industry level;
(e) Determination of transport corridors for multimodal transport on a sub-regional level.

(2) Develop sub-regional cooperation projects regarding harmonization of transport regulatory policies and legal regimes:

(a) Multilateral agreements;
(b) Non-discrimination of foreign operators based on an international harmonization of the terms of competition;
(c) International reglementation of transport covering issues such as freight forwarding and equipment interchange.

(3) Develop sub-regional cooperation projects regarding administrative procedures to find multilateral solutions to existing problems, particularly in the field of Customs transit.

C. Actions to be taken primarily by intergovernmental organizations

162. Under this heading fall all intergovernmental organizations, global, regional and sub-regional. While most of the proposed actions can be undertaken by the commercial parties in co-operation with governmental agencies, there may, in certain areas and particularly in regard to training, be a need for assistance from intergovernmental organizations. The areas and type of actions that might be considered are listed below without any attempt to differentiate between actions to be taken by individual intergovernmental agencies:

(a) Assistance with group-training activities;

(b) Assistance with implementation of specific actions such as:

(i) Advice to Government and commercial parties on specific measures which will facilitate the introduction of multimodal transport in a country or sub-region;
(ii) Advice on modifications to organizational structures for companies to undertake multimodal transport operations;
(iii) Advice on the creation of National Trade and Transport Facilitation Committees; and
(iv) Advice on the organization of awareness campaigns.

D. Implementation of the suggested actions

163. The suggestions made above to Governments and commercial parties need to be assessed in terms of the local context. In this evaluation process, international organizations, both inter-

governmental and non-governmental, will have important roles to play in assisting developing countries's decision-makers in two possible ways:

(a) By providing and monitoring technical assistance and training in specific areas, such as those mentioned in this report; and

(b) By directly creating an awareness of multimodal transport issues, by preparing reference documents for decision-makers on key issues, and by keeping these decision-makers abreast of technological developments.

164. The two approaches are complementary. One refers to actions in the field, whereas the other focuses on desk activities to support decision-makers' consideration of these issues. An essential feature of this process is cooperation between the interested parties. This cooperation could be promoted through the formation of a committee to channel proposals and decisions on facilitation to the proper institutions. Such a trade and transport facilitation committee, including technical sub-committees on legislation and computerization, could be set up with terms of reference along the lines presented in the Annex.

Annex

NATIONAL TRADE AND TRANSPORT FACILITATION COMMITTEE

Terms of Reference

A. Purpose and Objectives

1. The purpose of the National Trade and Transport Facilitation Committee is to encourage the modernization of transport practices and technology in support of the international trade of the country through the updating of current regulations and practices embodied in the Commercial Code and other texts.

2. The specific objectives of the Committee are to:

(a) Provide a national forum for the simplification of formalities, procedures and documentation used in international transport and trade ***(facilitation objective)***;

(b) Draft, for Government approval, transport and trade-related regulations and practices ***(regulatory objective)*** ;

(c) Recommend suitable policies on future intermodal transport investments ***(policy development objective)***; and

(d) Increase awareness of the methods and benefits of multimodal transport ***(training objective)***.

3. To reach these four specific objectives the Committee must:

(a) ***Facilitation objectives:***

(i) Ensure proper co-ordination in the field of facilitation of international trade and transport;

(ii) Review and if necessary initiate measures for the simplification and harmonization of international trade and transport procedures as well as the alignment of documents, including those designed for use by computers or other automated systems, on the basis of the United Nations layout key; and

(iii) Collect and distribute information on international trade and transport formalities, procedures, documentation and related matters thereby promoting the adoption of (international) standard trade and transport terminology and codes for trade and transport information.

(b) ***Regulatory objectives:***

(i) Examine existing transport-related legislation as it concerns multimodal transport, and if appropriate, propose amendmends or new legislation for Government approval of new documents and/or procedures on liability, insurance, banking and multimodal transport regulations (including container transport);

(ii) Examine the benefits for the country to adhere to international conventions which can facilitate international trade and transport, including the United Nations Convention on the "Carriage of Goods by Sea", the "United Nations Convention on International Multimodal Transport of Goods", the "Kyoto Convention", the "1972 Customs Convention on Containers", and the "Convention on Temporary Admission of Containers"; and

(iii) Follow up, through institutional and executive channels, final approval of proposed regulations and practices with the various institutions concerned.

(c) ***Policy development objectives:***

(i) Review the policy for national and international transport investment plans (such as establishment of ICDs, acquisition of new container wagons, etc.) in order to facilitate, as appropriate, the introduction and development of transport and trade technologies and investments (such as EDI technology); and

(ii) Serve as a national consulting body on questions related to the institutional development of multimodal transport (such as the expansion of national transport companies abroad; management of facilities; creation of multimodal transport joint-ventures; etc.).

(d) ***Training objectives:***

(i) Organize and implement campaigns, for example, through seminars or workshops to publicize the benefits and requirements of multimodal transport, its principles, practices and implications, aimed at two levels: (1) policy-makers and senior decision-makers, and (2) middle and junior managers, in Government organizations, and other regulatory bodies including Customs, parastatal bodies and transport providers and users; and

(ii) Organize, as a follow-up to the awareness programmes, short visits by technical experts to advise on the practical introduction of multimodal transport operations in order to maximize benefits derived from its introduction.

B. Authority and Composition

4. The Committee is a consulting body. It will have authority to prepare recommendations and advise on domestic and foreign policy matters related to the development of trade and transport. Its recommendations will be made in the form of proposals to the institutions concerned and to the executive branch of the Government. Its authority is part of the authority of the respective participating institutions.

5. The Chairman of the Committee will, at the request of the Committee, submit the Committee's proposals to the appropriate authority.

6. Each National Trade and Transport Facilitation Committee brings together representatives of all parties concerned with multimodal transport and trade in the country:

(a) Transport authorities;

(b) Other government agencies (Customs Ministeries of Finance, Planning, Central Bank, etc.);

(c) Other banking institutions;

(d) Insurance companies;

(e) Transport users (shippers, consignees, importers, exporters, freight forwarders, etc.);

(f) Chambers of commerce;

(g) International transport providers (shipping companies, airlines, MTO's and their agents);

(h) Port authorities and transport terminal operators (including ICD operators);

(i) Inland transport operators (road, rail, inland waterways).

7. The lead organization for the National Committee should be identified (e.g. by the National Central Planning Unit), in consultation with the members of the Committee. It might be convenient to give this responsibility to the Ministry of Transport Communications, which might also provide secretariat services to the Committee. The Committee will designate a ***Chairman***, preferably the Minister, the Deputy Minister, or the Permanent Secretary. The Committee will also

appoint a ***National Multimodal Transport Coordinator***, who will have full-time responsibility for national facilitation and human resource development activities and who will prepare the agenda for meetings of the national Committee. The representative of the Chamber of Commerce could act as Executive Secretary.

C. Work Programme

8. The Committee will prepare and implement its work programme aimed, *inter alia*, at:

   (a) The implementation of harmonized national transport regulations and the organization of trade facilitation and multimodal transport training activities;

   (b) The development of policies and solutions to trade facilitation and multimodal transport problems, in particular regarding daily problems of container operations in ports or inland transport modes, as well as Customs related issues; and

   (c) The national promotion of the development of electronic data interchanges using, *inter alia*, UN/EDIFACT, the Advanced Cargo Information System (ACIS) and ASYCUDA.

9. The Committee will meet regularly (e.g. once every two months) or at the request of its Chairman or any of its members.

D. Sub-regional Co-ordination

10. Within a sub-region, National Committees may wish to create a Sub-regional Trade and Transport Facilitation Committee composed of the Chairmen - and possibly also the National Multimodal Transport Coordinators - of each National Committee. The Sub-regional Committee could meet regularly, say every six months.

11. The terms of reference for this Sub-regional Committee could be:

   (a) To monitor regional progress in the field of multimodal transport and to coordinate regional awareness campaigns;

   (b) To identify common inhibitions (technical, institutional or commercial);

   (c) To identify common solutions/regional action required to solve existing problems;

   (d) To coordinate sub-regional rules and procedures on multimodal transport; and

   (e) To set subregion-wide standards for documentation, tariff structures, EDI, etc.

12. The Sub-regional Committees will have a very important role to play. In their standard-setting activities, a "top-down" approach must be followed, however, in their coordination activities, it will be extremely important to take the views of the practitioners into consideration. The very nature of multimodal transport requires cross-border coordination. Such a coordination will not be confined to neighbouring countries, but must also take into consideration the needs of trading partners and third countries. In this connection, the Sub-regional Committee may wish to co-opt, on an *ad hoc* basis, representatives from other sub-regional groupings dealing with transport issues.

13. The important steering role of the Sub-regional Committee could be substantially strengthened if *ad hoc* expert services were assigned to specific tasks.